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Current Topics.

Public Service.

IT has ever been characteristic of our countrymen that in times of national stress they have invariably responded with alacrity to assist the commonwealth in any way in which their services could be of utility, and what is true of the nation at large is equally so with regard to those who, having served their day and generation, had retired to enjoy a well-earned rest, have come back once again to shoulder the burden of office. A fresh instance of this readiness to serve is afforded by Sir SIDNEY ROWLATT, who has agreed, on the application of the Lord Chancellor, to act as Chairman of the General Claims Tribunal to deal with compensation for war losses. Sir SIDNEY has a long record of active service in the law. Before being appointed to the High Court Bench he was for a time Recorder of Windsor; he was later appointed Junior Counsel to the Treasury, a post which he held from 1905 till his appointment as a judge of the King's Bench Division in 1912, eventually retiring in 1932. Chairmanship of various Commissions has also come within his activities; thus, he acted as such in one in India, and later was employed in the same way but on a very different subject-matter, namely, that of Lotteries and Sweepstakes. In his more youthful days he employed the leisure that was then his by writing what is still the standard treatise on the Law of Principal and Surety.

The Prices of Goods Bill.

THE main points of the Prices of Goods Bill, were indicated in the course of a "Current Topic" in our last issue. Further light on the scope and character of the measure is thrown by a speech made by Mr. OLIVER STANLEY, President of the Board of Trade, and the particulars previously given may therefore be usefully amplified. In regard to the power given to vary the date with reference to which the basic price will normally be fixed (1st August, 1939), it was explained that there was the difficulty of dealing with seasonal goods where the price in August might have no relation to prices in December or January. It was stated, moreover, that in certain specified circumstances it might be convenient at some time to take a new date for which the basic price could be fixed. The scope of the Board of Trade Orders by which the Act will be applied was indicated as, in general, "articles necessary for civil consumption." The orders will not apply to articles already the subject of price control or to luxury goods. As to the former the machinery of the Bill was clearly unnecessary, while the extension of the machinery to articles within the latter class was largely unnecessary because the consumer had the remedy in his own hands by declining to buy them. With regard to the power given under certain conditions to the Board of Trade to specify the basic price and the permitted increase, Mr. STANLEY said that it was designed as protection for the trader. It did not create an offence, but it created a defence. It meant that if a trader sold at the permitted price or below it he had a complete defence, and no prosecution could lie against him. A considerable difference of opinion as to the value of the clause appears to have been manifested in the course of consultations which the President of the Board of Trade had with various organisations, and the clause seems in general to have been favoured by wholesalers and regarded as unworkable by retailers. For this reason a provision has been introduced to the effect that the clause shall only be brought into effect on the application of a body of traders. Mr. STANLEY adverted to the extreme importance of the functions and composition of the local committee and the central committee whose duty it will be to carry out the provisions of the Act. He hoped, he said, to put as much of the administration of the measure as possible in their hands, and that by the work of the committees a flood of prosecutions could be avoided. Major LLOYD GEORGE, Parliamentary Secretary to the Board of Trade, replying to the debate on the Bill, stated that it was the Government's intention to obtain on the committees the services of people who understood business affairs and were able to analyse them. It was their intention that the Bill should work first in relation to articles which entered into the standard of living of the people. By that means they would avoid the disaster of having the machinery completely overwhelmed.

Air Raid Shelters: Grants under the Civil Defence Act.

UNDER s. 22 of the Civil Defence Act, 1939, exchequer grants are payable to every owner of factory premises and every owner of a mine or commercial buildings equal to the appropriate proportion of the capital expenditure as the Minister considers reasonable at an amount in the pound equal to the standard rate of income tax for 1939–1940. Every other person, with certain specified exceptions, incurring similar capital expenditure is also eligible for the grant. No grant is payable under the section unless the shelter was provided before 30th September, 1939, or the work was then in progress or preparations were being taken, the Minister being satisfied that the shelter would be ready in reasonable time. The Minister of Home Security recently announced that his department was ready to receive applications for the payment of the Government grant available under the foregoing section to occupiers of factory premises

and owners of commercial buildings in the specified areas who have completed the provision of air raid shelter in fulfilment of their obligations under the Act. Forms of application for the grant may be obtained by occupiers of factory premises from the district factory inspectors, and by owners of commercial buildings from the local authority in which the building is situate. Applications by persons in the specified areas employing not more than fifty workpeople who have provided shelter for their employees, and by persons outside the specified areas who provided such shelter before the passing of the Civil Defence Act (13th July, 1939), should be made on special forms obtainable from the A.R.P. Department, Cleland House, Page Street, London, S.W.1. It is stated that it would materially assist the department if application by those who have completed their shelters is made as soon as possible ; and that applications for the grant will be dealt with in rotation.

Cars for Civil Defence : Insurance.

In the course of a note on this subject in our issue of 7th October (*ante*, p. 754) we indicated that the arrangements made by the motor insurance companies and underwriters with regard to the insurance of vehicles used for civil defence, which would have expired on 29th September, had been extended with certain further concessions in favour of the owners of such cars. A further statement on the subject has recently been issued on behalf of the companies and underwriters from which it appears that the whole question has been examined by the Government Departments concerned. As a result, a circular has been issued by the Home Office to all civil defence authorities. The position is now as follows. A scheme for insurance has been arranged covering the use for civil defence purposes only of requisitioned vehicles and other vehicles taken over for whole-time service, and there is a special form of comprehensive policy covering damage and the liabilities of the authority, the owner, and the driver. A flat rate of premium will be charged irrespective of the type of vehicle, and the premium paid by owners of vehicles for this insurance will be a charge on the authority. Owners, it is stated, should get into touch with their insurers after consultation with the civil defence authority concerned. As regards volunteers' vehicles enrolled for part-time service, arrangements have been made for the issue of block comprehensive policies to authorities, granting cover identical with that in respect of whole-time vehicles, covering all their volunteers' part-time vehicles while being used for civil defence at a special flat rate per vehicle. It is pointed out by the insurers that these arrangements will have the advantage from the owner's standpoint that claims arising out of his civil defence service will not be recorded against him for any purpose and will not involve loss of the no-claim bonus. In view of these arrangements existing policies will no longer cover use of vehicles for civil defence purposes.

The Cancer Act : Extension of Time.

The Cancer Act, 1939, imposes upon county councils and county borough councils the duty of securing in their respective districts adequate facilities for diagnosis and treatment of this disease. The councils are required to submit to the Minister of Health, for his approval, their arrangements for the fulfilment of this duty by 29th March, 1940, or during such longer period as the Minister may in any case allow. In a recent circular (No. 1884) addressed to the authorities concerned, the Minister indicates that he has decided to extend until 31st March, 1941, the period in which the necessary arrangements may be submitted. He states that he realises that by reason of the heavy pressure of extra work in recent months it has not been possible for local authorities generally to give such attention to the matter as would enable them to submit their arrangements by the date named in the Act, and that he has accordingly granted a general extension for just over twelve months.

The Building Societies Act and Rules : A Reminder.

Readers may be reminded that the Building Societies Act, 1939, which received the Royal Assent on 4th August, comes into operation on 1st November. The Act is in part declaratory, though nothing contained therein is to deprive a party to proceedings instituted in any court before 21st February, 1939, of any relief to which such party would have been entitled in those proceedings if the Act had not been passed. In regard to pre-Act advances, a society is to be deemed always to have had power to take into account, besides the property itself, the value of any additional security for the advance. After the coming into operation of the Act, in determining the amount of any advance to members, a society has no power to take into account the value of additional security which it takes for the advance unless the security falls within the class specified in a schedule. There is no power to take any additional security in the case of advances to non-members. Another provision which may be shortly noted is that relating to warranties. This is to the effect that a society making an advance to a member for the purpose of its being used in defraying the purchase price of freehold or leasehold estate is to be deemed to warrant to that member that the price is reasonable unless, before any contract requiring the member to repay the advance is entered into, the society gives to the member a notice in writing, in such form as may be prescribed, stating that the making of the advance implies no such warranty. Several other amendments in the law are contained in the Act, but the nature of these cannot be indicated even in summary form here. They have been dictated by the growing practice of house purchase by instalments, often by persons of small means, and their general character will have been gathered from the many paragraphs in these columns devoted to the subject when the present measure was before Parliament. Attention should also be drawn to the Building Societies Rules, 1939 (published by H.M. Stationery Office, price 2d. net), which have been made by the Chief Registrar of Friendly Societies under powers conferred by the Act. These rules prescribe various forms of notice for the use of building societies and others in connection with transactions taking place after 1st November. It is stated that the only form which will be printed officially is the return relating to sales and transfers which, under s. 13 (2) of the Act, must be sent to the registrar for each period for which an account and statement is required to be sent under s. 40 of the Building Societies Act, 1874. Other forms must be reproduced from the rules.

Recent Decisions.

In *Stovell* v. *Jameson* (*The Times*, 14th October) a Divisional Court (Lord Hewart, C.J., and Charles and Humphreys, JJ.) reversed a decision of magistrates and held that an offence had been committed under s. 3 of the Betting and Lotteries Act, 1934, by one to whose premises persons resorted to obtain football pool coupons and to hand the completed coupons and money owing on the previous week's coupons for dispatch, after deduction of commission, to the organisers of the pool in Edinburgh.

In *Madeleine Vionnet et Cie* v. *Wills* (*The Times*, 13th October), the Court of Appeal (Scott, Clauson and du Parcq, L.JJ.) reversed the decision of a county court judge, and held that where the defendant had incurred a debt in a foreign currency the plaintiffs in a suit in an English court were entitled to recover the equivalent of the debt in sterling calculated according to the rate of exchange prevailing at the date when the debt became payable. The obligation was not satisfied by payment into court of an amount calculated according to the rate prevailing at the date of the writ. *Re British American Continental Bank, Ltd., ex parte Credit Général Liégeois* [1922] 2 Ch. 589, followed. See *s.s.* "*Celia*" v. *s.s.* "*Volturno*" [1921] 2 A.C. 544. Leave was granted to appeal to the House of Lords.

Company Law and Practice.

English Companies as "Enemies."

THE expression "enemy," for the purposes of the Trading with the Enemy Act, 1939, is defined by s. 2 of that Act to mean—

(*a*) any State, or Sovereign of a State, at war with His Majesty;

(*b*) any individual resident in enemy territory;

(*c*) any body of persons (whether corporate or unincorporate) carrying on business in any place, if and so long as the body is controlled by a person who, under the section, is an enemy; or

(*d*) any body of persons constituted or incorporated in, or under the laws of, a State at war with His Majesty.

It will be observed that, having regard to the terms of para. (*c*), a company incorporated under the Companies Act, 1929, may be an "enemy" for the purposes of the Act, if and so long as it is controlled by, for example, individuals resident in enemy territory or by another company incorporated in an enemy state. In effect, the Legislature has adopted the criterion applied in the well-known case of *Daimler Company, Ltd.* v. *Continental Tyre and Rubber Company (Great Britain), Ltd.* [1916] 2 A.C. 307, for the determination of the character, enemy or otherwise, of a company incorporated in this country. Paragraph (*c*) applies, of course, not only to companies incorporated under the Companies Act but to "any body of persons (whether corporate or unincorporate) carrying on business in any place," but I am only concerned here with companies incorporated in this country.

In the *Daimler Company Case* the courts, in considering whether an English company could be an enemy, were not concerned with the interpretation of any statutory definition of the term "enemy"; primarily, the question was whether and in what circumstances an enemy character could at common law be attributed to an English company, and this involved a consideration of the nature of a corporation's personality. Indeed, the case has provided much material for jurists investigating the nature of the "person" of a corporation—to what extent it is real, to what extent artificial; this aspect of the case is, however, outside my province. As I have already indicated, it was decided that an English company can be an enemy and that the question falls to be determined by reference to the character—enemy or otherwise—of the persons in control of its affairs. This decision was not reached without much conflict of judicial opinion, and, to be strictly accurate, the determination of the point was not necessary in the House of Lords, so that, as far as the common law is concerned, authority for the proposition originated in *obiter dicta* of a majority of the learned lords; however, these *dicta* have not only been applied in later cases, but referred to as "decisions," and it cannot be doubted to-day that the opinion propounded by the majority of the law lords in the *Daimler Company Case* is binding so far as it is unaffected by legislation.

It may be said that the decision in that case is not of practical importance for present-day purposes, since it has in effect been superseded or, as I have put it, adopted, by the Legislature in the definition of "enemy" contained in s. 2 of the Trading with the Enemy Act, 1939; nor perhaps would it be a sufficient answer to the objection to say that that definition of "enemy" is only for the purposes of the Act, and there might still arise questions outside the scope of that Act involving the determination of the enemy character of a corporation, and that in deciding those questions the principles laid down in the *Daimler Company Case* would be applicable. It does seem probable, however, that in applying the definition contained in s. 2 (*c*) of the new Act, i.e., in deciding in whom the control of an English company is vested, reference will frequently be made to the *Daimler Company Case*. As an illustration I would refer to the speech of Lord Parker which embodied the views of the majority. After pointing out that in the case of natural persons voluntary residence among the King's enemies invests English-born subjects with an enemy character, he asks, What in the case of a corporation is the analogue to residence? The analogy, he says, is to be found in control. "The acts of a company's organs, its directors, managers, secretary, and so forth, functioning within the scope of their authority, are the company's acts and may invest it definitively with enemy character. It seems to me that similarly the character of those who can make and unmake those officers, dictate their conduct mediately or immediately, prescribe their duties and call them to account, may also be material in a question of the enemy character of the company. If not definite and conclusive, it must at least be *prima facie* relevant, as raising a presumption that those who are purporting to act in the name of the company are, in fact, under the control of those whom it is their interest to satisfy."

In a later passage Lord Parker summarised the law, that is to say, the common law, on the subject in a series of propositions, in which the criterion of "control" is further elaborated. After pointing out that a company incorporated in the United Kingdom is a legal entity which can only act through agents properly authorised, Lord Parker said that so long as it is carrying on business in this country through agents so authorised and residing in this or a friendly country, it is *prima facie* to be regarded as a friend. Such a company may, however, assume an enemy character, if its agents or the persons in *de facto* control of its affairs, whether authorised or not, are resident in an enemy country, or, wherever resident, are adhering to the enemy or taking instructions from or acting under the control of enemies. With regard to the bearing on the question of control of the character of individual shareholders, Lord Parker said this: "The character of individual shareholders cannot of itself affect the character of the company. This is admittedly so in time of peace, during which every shareholder is at liberty to exercise and enjoy such rights as are by law incident to his status as shareholder. It would be anomalous if it were not so also in a time of war, during which all such rights and privileges are in abeyance. The enemy character of individual shareholders and their conduct may, however, be very material on the question whether the company's agents, or the persons in *de facto* control of its affairs, are in fact adhering to, taking instructions from, or acting under the control of enemies. This materiality will vary with the number of shareholders who are enemies and the value of their holdings. The fact, if it be the fact, that after eliminating the enemy shareholders the number of shareholders remaining is insufficient for the purpose of holding meetings of the company or appointing directors or other officers may well raise a presumption in this respect. For example, in the present case, even if the secretary had been fully authorised to manage the affairs of the company and to institute legal proceedings on its behalf, the fact that he held one share only out of 25,000 shares, and was the only shareholder who was not an enemy, might well throw on the company the onus of proving that he was not acting under the control of, taking his instructions from, or adhering to the King's enemies in such a manner as to impose an enemy character on the company itself."

These observations of Lord Parker were considered and applied by Russell, J., in *In re Badische Co., Ltd.* [1921] 2 Ch. 331. There out of 10,000 shares over 9,900 were held by enemies, and though there were two English directors who conducted the company's business in England, the greater number of the directors were enemies. Russell, J., found that the control of the company was in the hands and power of enemies, and accordingly that the company must be held to have an enemy character. It is interesting to note that the learned judge adverted to the possibility that, active enemy interference having been cut off by the outbreak

of war, it might be possible for the company to divest itself of enemy character and lawfully carry on business here; so in the *Daimler Company Case* Lord Atkinson said that it might well be that if there remained a number of shareholders, not being enemies, sufficient to re-elect directors not enemies, and so set up again in accordance with the articles an organisation for the control and management of the company's affairs, its business might legitimately be carried on. In this connection it will be remembered that para. (*c*) of s. 2 of the 1939 Act attaches enemy character to an English company only if and *so long as* it is controlled by enemies.

The 1939 Act does not contain any definition of what constitutes "control" of a company, and each case would fall to be determined on its particular facts. In the ordinary case, no doubt, the first consideration would be the character, enemy or otherwise, of the board of directors; but, as Lord Parker pointed out, it would also be material to consider whether the directors act under the control of the shareholders, and, if so, what is the character of the individual shareholders. It may not be without interest to recall the definition of "enemy-controlled corporation" in the Trading with the Enemy (Amendment) Act, 1918, though that Act is now repealed, and the definition, it need hardly be said, can have no direct bearing on questions arising under the 1939 Act. In the 1918 Act the expression "enemy-controlled corporation" meant any corporation—

> "(*a*) where the majority of the directors or the persons occupying the position of directors, by whatever name called, are subjects of an enemy state; or
>
> "(*b*) where it appears to the Board of Trade that the majority of the voting power or shares is in the hands of persons who are subjects of an enemy state, or who exercise their voting powers or hold the shares directly or indirectly on behalf of persons who are subjects of an enemy state; or
>
> "(*c*) where the control is by any means whatsoever in the hands of persons who are subjects of an enemy state; or
>
> "(*d*) where the executive is an enemy-controlled corporation or where the majority of the executive are appointed by an enemy-controlled corporation."

One last point. In the *Daimler Company Case* one of the propositions enunciated by Lord Parker was this: "A company registered in the United Kingdom but carrying on business in an enemy country is to be regarded as an enemy." The definition of "enemy" in the 1939 Act does not incorporate this proposition, nor is it altogether clear how it is to be reconciled with the view that the test of the enemy character of an English company is the character of the persons who control the company. The Court of Appeal in *Re Hilckes* [1917] 1 K.B. 48, seem to have had some doubts as to the extent to which this proposition could be applied, and held that the mere fact that a British company did business in an enemy country through a properly appointed agent there did not constitute it an enemy company. So far as the 1939 Act is concerned the carrying on of business in an enemy country, though no doubt it would involve an offence against the Act, would not of itself constitute an English company an enemy.

War and Contracts.

V.—ALIEN ENEMIES.

WHO is an alien enemy?

To answer this question accurately, one must first ask another: Are we thinking of the *personal* rights and liabilities of X, who lives in England, e.g., whether he may be interned? Or do we wish to know his *civil* rights, e.g., whether he may contract and what is the effect of war upon his contracts?

If X is the subject of a state at war with His Majesty, *politically*, he is an alien enemy subject to disabilities under the Aliens Restriction Acts, 1914 and 1919, and the Aliens Order, 1920 (as amended).

But suppose X, voluntarily residing or carrying on business in England, duly registers as an alien enemy and—under the present policy of the Government (see *The Times*, 25th October, *Parliament*, p. 4)—is exempt from internment, as being, in effect, a friendly alien. *Politically*, an alien enemy, yet, for the purpose of his *civil* rights, he is not treated as an alien enemy. The test for civil purposes is not nationality but where does he reside or carry on his business?

> "An Englishman carrying on business in an enemy's country is treated as an alien enemy in considering the validity or invalidity of his commercial contracts. Again, the subject of a State at War with this country but who is carrying on business here or in a foreign neutral country is not treated as an alien enemy": *per* Lord Lindley in *Janson* v. *Driefontein Consolidated Mines* [1902] A.C. 484, 505.

The principle applies to residence as it does to carrying on business. In *Porter* v. *Freudenberg* [1915] 1 K.B. 857, 868, Lord Reading, C.J., declared that, for the purpose of civil rights, a person may be treated as the subject of an enemy state, although he is a British subject or a neutral.

> "Conversely, a person may be treated as a subject of the Crown notwithstanding that he is in fact the subject of an enemy State."

Thus, "the test of a person being an alien enemy is not his nationality but the place in which he resides or carries on business. A person voluntarily resident in, or who is carrying on business in, an enemy's country is an alien enemy" (Headnote, *ad loc*). For the purposes of *trading*, a more comprehensive definition will be found in s. 2 (1) of the Trading with the Enemy Act, 1939—to be examined in a subsequent article.

What, then, is the effect of war upon contracts to which an "enemy resident" is a party? This term is used by McNair to include a person carrying on business, often implying no more than voluntary and temporary presence in a particular country ("Legal Effects of War," p. 59).

If upon the outbreak of war a right of action has accrued to either party, the enemy resident—if he can be served—can be sued. But, "apart from very exceptional circumstances," he cannot sue; his right of action will revive on peace (*Janson's Case, supra*).

If, however, no right of action has accrued, the contract is discharged and the loss lies where it falls, under the rule in *Chandler* v. *Webster* [1904] 1 K.B. 493. A suspensory clause will not help; it is void as against public policy, as tending to the detriment of this country and the advantage of the enemy country (*Ertel Bieber & Co.* v. *Rio Tinto Company* [1918] A.C. 260). Very large quantities of ore were to be shipped by an English company in Spain to three German companies. Upon the outbreak of war one contract had been almost performed; no deliveries had begun under the second contract to run from 1915 to 1919. Lord Dunedin said:

> "A state of war between this Kingdom and another country abrogates and puts an end to all executory contracts which for their further performance require, as it is often phrased, commercial intercourse between the one contracting party, subject of the King, and the other contracting party, an alien enemy, or anyone voluntarily residing in an enemy country . . . I think the word 'intercourse' is sufficient without the word 'commercial'" (at pp. 267, 268).

A state of war does not avoid *all* contracts between subjects and enemies: "Accrued rights are not affected though the right of suing in respect thereof is suspended." Moreover, certain contracts, "really the concomitants of rights of property"—even though executory—are not abrogated, e.g., the contract between landlord and tenant (*Halsey* v. *Lowenfeld* [1916] 2 K.B. 707). An executory contract to be abrogated must involve intercourse or must be contrary to public

policy (at p. 269). Now all trading with the enemy is, at common law, unlawful; its tendency is to enhance the resources of the enemy or to cripple those of the subjects of the King (at p. 273). See *The Hoop* (1799), 1 C. Rob. 196; *Esposito* v. *Bowden* (1857), 7 E. & B. 763 (which related to an executory contract). Lord Dunedin drew the conclusion from the cases that upon the ground of public policy—

> "the continued existence of contractual relation between subjects and alien enemies or persons voluntarily residing in the enemy country which (1) gives opportunities for the conveyance of information which may hurt the conduct of the war, or (2) may tend to increase the resources of the enemy or cripple the resources of the King's subjects is obnoxious and prohibited by our law" (at p. 274 of [1918] A.C.).

Two exceptions at least exist to this rule. First, an enemy resident remains liable for the rent of his flat, accruing during the war upon a lease made before the war. The fact that being interned he is unable to reside in the flat does not discharge the contract; he may sub-let or even lend it to a friend see, e g., *Halsey* v. *Lowenfeld*, *supra:* and Reading, C.J., at p. 713). Secondly, a power of attorney for the sale of leaseholds given by a person who entered enemy territory remained valid. The agreement for sale made by the attorney was valid and could be carried out. No "intercourse" with an enemy took place; the attorney exercised his powers without reference to the principal; the proceeds could be handed over to the custodian (*Tingley* v. *Muller* [1917] 2 Ch .144, 169: *per* Warrington, L.J.).

From the general prohibition against "intercourse" with the enemy, it follows that during war it is illegal for a "British resident" to contract with an "enemy resident" (McNair, *op. cit.*, p. 71). Nor is the prohibition limited to commercial intercourse only:—

> "... we can see no ground ... for holding that a transaction between an alien enemy and a British subject which might result in detriment to this country or advantage to the enemy is permissible because it cannot be brought within the definition of a commercial transaction" (*per* Pickford, L.J., in *Robson* v. *Premier Oil & Pipe Line Co.* [1915] 2 Ch. 124, 136).

The term "alien enemy" is here used, not in its political connotation, but within the meaning of the term in *Porter* v. *Freudenberg*. Thus, a German citizen living in England who has duly registered and complied with regulations is not, for this purpose, an alien enemy. He is here under the King's protection; his contractual capacity is the same as the capacity of a resident British subject (*op. cit.*, p. 73). Nor does internment, whether temporary or indefinite, *provided that the internment is "innocent" or "normal" and "not the result of hostile attitude or some overt hostile act,"* affect the contracts of an "enemy resident." During the last war internment of German and Austrian citizens was carried out on a large scale—"as a mere measure of police"—and did not imply any hostile attitude on the part of the internee. During the present war the policy of the executive is to intern only those persons who, upon the report of an alien tribunal, are suspected of a hostile attitude. In a case of this nature, it might be an open point whether the reasoning of Younger, J., and the Court of Appeal in *Schaffenius* v. *Goldberg* [1916] 1 K.B. 284, would apply. (See at p. 296, where the point is, in effect, reserved.)

The case involved an elaborate commercial contract made long after the war began, between a German citizen who for many years had lived and carried on business in England, and a British manufacturer whom he agreed to finance. In 1915, in accordance with the general policy of interning enemy male aliens of military age, S was interned. He accordingly appointed an attorney who sued the defendant for repayment of moneys advanced. It was held that the action was maintainable.

S was not an "enemy," said Younger, J. (at p. 290). Internment, though it may be restrictive of opportunities, does not affect the right of contract. Internment has not made him an enemy; "enemy character in a trading sense has never attached to him." He could accordingly enforce his claim in the courts. *West* v. *Williams* (1697), 1 Salk 46, laid it down that "an alien enemy commorant here by the King's licence, and under his protection may sue . . ." Registration is evidence of that licence (*per* Sargant, J., in *Princess Thurn and Taxis* v. *Moffit* [1915] 1 Ch. 58. Nor is internment a revocation of that licence, although an internee cannot sue out a writ of *habeas corpus* (*Ex parte Liebmann* [1916] 1 K.B. 268. Even a prisoner of war is for certain purposes under the King's protection, and there are cases in which he can maintain an action, nor is he adhering to the King's enemies (*per* Heath, J., in *Sparenburgh* v. *Bannatyne*, 1 Bos. & P. 163, 170).

In *Nordman* v. *Rayner* (1916), 33 T.L.R. 87, the contract was one of agency made before the war. The plaintiff, interned for a month, was then released; he was of French extraction and anti-German in sentiment. The same principle was applied.

(*To be continued.*)

A Conveyancer's Diary.

Building Society Mortgages and the Emergency Legislation.

WIDESPREAD confusion and uncertainty exist regarding the present position of mortgagors and mortgagees, especially in cases where the mortgage is one to a building society and/or where the mortgagor has been called up upon national service, whether military or civil. The confusion is largely due to the multiplicity of recent legislation and to the very illogical position which exists thereunder. It appears to be imperative, both upon the grounds of justice and clarity, that the law should be altered and simplified without delay. It should be possible, as I shall hope to explain, to enact fresh legislation which will satisfy the feelings of ordinary people as to what is just and which can readily be understood by ordinary people. Such cannot be said of the present position.

My attention has been called to a paragraph upon this subject in the "Current Topics" column of this Journal in the issue of 7th October. The subject is so complicated that it is impossible to treat completely in so short a compass as a paragraph, and what was there said requires to be amplified here.

In the first place, two broad distinctions must be clearly apprehended. First, there is legislation applicable to all mortgages whether the mortgagor is or is not upon national service. Second, there is special legislation regarding mortgagors upon service with the armed forces.

To deal first with the general emergency legislation regarding mortgages. First, they are affected by the Increase of Rent and Mortgage Interest Restrictions Act, 1939, which I shall refer to as the Rent Act, 1939, and correspondingly to its predecessors. The Rent Act, 1939, continues the Rent Acts existing at the beginning of the war and extends them to cover more expensive dwelling-houses. The Rent Acts, broadly speaking, prevent the increase of existing rents, and, inasmuch as it would be unfair to the landlord to allow the mortgage interest, if any, which he has to pay to be increased while his tenants' payments cannot be increased, the Rent Acts also prevent the putting up of mortgage interest in respect of controlled dwelling-houses beyond a specified amount, and to prevent evasion they provide that so long as the permissible rate of interest is paid the mortgage shall not be called in nor the remedies of the mortgagee exercised unless there is breach of such covenants as the repairing covenant. That provision is made by s. 7 of the Rent Act, 1920, but by the express terms

of that section this provision has no application at all in cases where the mortgage is one where " the principal money secured thereby is repayable by means of periodical instalments extending over a term of not less than ten years from the creation of the mortgage." Accordingly, the instalments both of principal and interest of practically every building society mortgage are outside the Rent Act, 1939.

Second, there are the Courts (Emergency Powers) Act, 1939, and the Possession of Mortgaged Land (Emergency Provisions) Act, 1939. I discussed these Acts in their relation to mortgages very fully in the " Diary " of 30th September, and a further treatment of them is shortly to appear under the title of " The Courts (Emergency Powers) Act." It will, therefore, suffice to say here that under these Acts the rights and remedies of a mortgagee under a pre-war contract cannot be exercised, or judgments arising out of them enforced, without the leave of the court. Leave is not to be given where the person liable is " unable immediately " to discharge his liability " by reason of circumstances directly or indirectly attributable to any war in which His Majesty may be engaged." Accordingly, under these Acts, though a mortgagor remains *liable* to the last penny upon his pre-war mortgage, the court is able to temper the wind of economic adversity to him by preventing the liability being enforced against him at present in the circumstances mentioned. The court has, however, no power to release the liability or to postpone the liability, and so far as these Acts are concerned the money payable will have to be paid eventually.

In these Acts there is only one provision which differentiates building society mortgages from other mortgages. That is the provision in the Possession of Mortgaged Land (Emergency Provisions) Act which excludes mortgages where the mortgage money is repayable by instalments from [the provision depriving a mortgagee of his ordinary right to possession unless (*inter alia*) the mortgage money has not been paid for three months after a written demand. Accordingly, default upon the payment of any instalment of a building society mortgage is a default for the purposes of that Act, and the mortgagee thereby gets a right to take possession. This solitary exception is an exception in favour of building societies, not an exception in favour of borrowers from them.

So far, then, the three Acts which I have discussed impose certain restrictions upon the rights of mortgagees, but have two exceptions which I have noted in favour of building societies. These Acts are applicable for and against all persons, whether or not they are involved in any form of national service. I ought to point out, therefore, that there is no exception in favour of persons in any of the civil defence services which puts them in a better position than other persons who are suffering loss owing to the war. The further group of legislation to which I shall refer has application only to persons in the armed forces.

A deplorable and wholly unjustifiable state of confusion exists regarding the position of persons in the armed forces.

First, there is no special privilege for any member of the regular Army, Navy or Air Force. That, after all, is only reasonable, because they are perhaps the only class of the community who have not seen the financial side of their private lives disorganised by the war.

Second, there is protection for some but not all persons who have undertaken financial liabilities in civil life and have found themselves suddenly (though perhaps not altogether unexpectedly) called out for service with the armed forces, in most cases at a rate of pay vastly below what they earn in civil life.

The Military Training Act, 1939, which was passed earlier in the year for the conscription and training in peace time of young men between twenty and twenty-one, and the Reserve and Auxiliary Forces Act, 1939, which was also passed earlier in the year for permitting the partial mobilisation in peace time of the armed forces, other than the regular forces, both contain a section (s. 11 (1) of the former and s. 4 (1) of the latter) which provides that " His Majesty may by Order in Council make provision for such consequential matters as it appears to Him expedient to provide for by reason of the passing of this Act."

This power was exercised under both Acts, the Orders being the Military Training (Consequential Provisions) Order (1939, S.R. & O., No. 718) and the Reserve and Auxiliary Forces (Consequential Provisions) Order (1939, S.R. & O. No. 719). Both these Orders contain provisions in favour of persons affected by the two Acts comparable to the general provisions now made by the Courts (Emergency Powers) Act. Accordingly, we need not further consider those parts of the Orders. But art. 3 of each Order makes special provision regarding building society mortgages. Article 3 of the Military Training, etc., Order provides as follows : " Where any advance made by a building society is repayable to the society by instalments (whether or not such instalments include payments in respect of interest or other charges) accruing due from a person under training, no such instalments shall become due during his period of training, but the first instalment which would have become due during that period shall become due on the first date fixed for the payment of an instalment next after the end of that period, and all subsequent instalments shall be postponed accordingly." Under this article, therefore, militiamen called out in July are given the benefit of a moratorium, in the true sense, in respect of their building society instalments both of principal and of interest. The young men who were to get the benefit of this provision were to be called out for six months, and it was altogether reasonable that they should be given this moratorium. It is, however, another matter now that they are on service for the duration of the war. The benefits of the article are given to " a person under training " for the " period of training." These expressions are defined in art. 21 (1), and in effect mean persons on whom a military training notice is served under the Military Training Act, 1939, who are to benefit while they are under training in accordance with that notice. Militiamen, therefore, who were called up in July remain protected for the first six months of their service. After that it seems they will not be protected any more than any member of the general public, because they will no longer be in training under the Military Training Act but will be enlisted in the armed forces under the National Service (Armed Forces) Act, 1939. Until then their position appears to be preserved by s. 12 (6) of the latter Act.

The National Service (Armed Forces) Act provides, however, that as from the passing of the Act (i.e., 3rd September) no person is to be liable to be called up under the Military Training Act (s. 12 (1)). Moreover, by s. 12 (5) a military training notice served before 3rd September is to be treated as an enlistment notice under the later Act unless the person concerned had already been called to the colours (s. 12 (6)). Accordingly, young men who would in the normal course have become militiamen in September are on the same footing as persons called out under the National Service (Armed Forces) Act and the proclamations to be made thereunder.

Section 15 of the National Service (Armed Forces) Act provides that His Majesty in Council is to have power to make Orders regarding consequential matters. This section is in terms identical with the sections conferring such a power in the two earlier Acts. But so far as I can discover no Order has been made under it which in the least affects matters of property or private law rights generally. The result is that the future conscript has no such protection as the militiaman (or the man in the reserve or auxiliary forces : see *infra*), and the rights given to the militiamen of July are not shared by the militiamen of September, who are deemed to be called out under the National Service (Armed Forces) Act.

Such anomalies are unjust and unnecessary, though it does not at all follow that every conscript ought to be given for the duration of the war the very great privileges given to the militiamen in peace time for a mere period of six months.

An even more unsatisfactory position exists in regard to the territorial army and other reserve forces. Article 3 of the Reserve, etc., Forces, etc., Order gives the same privileges as were given to the militiamen to a person "called out" for the period of his service as a person called out. By art. 31 of the Order "called out" means "called out for service under the Act" and "the Act" means "the Reserve and Auxiliary Forces Act, 1939." It is common knowledge that that Act was passed to provide in peace time for the Government to have power partially to mobilise the reserve and auxiliary forces during a period of international tension. The powers of the Act were sought in order to allow the Government to call out the persons concerned in turn for periods of a month or five weeks without proclamations of general mobilisation. The Act was never meant to apply to a state of affairs where all the members of the reserve and auxiliary forces are mobilised for the prosecution of a war. It was a peace time measure, under which individual persons were to be called up for a matter of a few weeks, and the moratorium provisions of art. 3 of the Order were plainly intended to meet such an eventuality.

When the war was imminent the Act was invoked in order to call out various categories of persons. All persons so called out were already serving at the dates when the proclamations for general mobilisation were issued, and they cannot have been affected by them. The proclamations were made, of course, under statutory powers vested in the Crown apart from the Act of 1939. The question whether or not any given person in the reserve or auxiliary forces is protected in regard to his building society instalments by art. 3 of the Order depends on whether he was called out under the Reserve and Auxiliary Forces Act, 1939, or whether he was called out by or under one of the proclamations. Where there has been a partial mobilisation followed by a general mobilisation, which category a particular man falls in is entirely a matter of chance. The anomalies are particularly noticeable in connection with the various naval and marine reserves, in respect of which the mobilisation proclamations were not made until 21st September. But a very large number of those reservists were, as will be remembered, called out under the Act at the beginning of August.

Arbitrary distinctions of this character cannot be justified. It is very doubtful whether a complete moratorium both as to capital and interest of building society loans ought to be allowed for the whole period of the war. It is equally unsuitable that some men should have no protection at all.

It seems that the Legislature ought to pay attention to this whole question of building society loans at the earliest possible moment, and I suggest the following as a basis for consideration.

First, whatever is done should be done alike for civilians mobilised with the armed forces or for whole-time service with the civil defence services, though not for members of any of the peace time regular services.

Second, whatever is done should be uniform for all classes of persons serving.

Third, it is not reasonable that persons who owe debts to building societies should be released for the whole period of the war from paying any interest at all, any more than the mobilised tenant of a controlled house is released from paying the rent allowable under the Rent Act.

Fourth, inasmuch as most persons in the services have suffered a diminution of income, it is equally unreasonable for them to be expected to pay back instalments of capital. After all, the Rent Acts prevent mortgages (other than mortgages payable by instalments) being called in so long as the interest is kept down.

I suggest, therefore, that in the case of every person in the services the amount of his capital liability under a building society mortgage should be ascertained as at the day on which he joins the forces, and that for the period of the war he should be compelled to pay interest upon that liability at the ordinary rate at which persons were paying interest on overdrafts at the date when he was called up, but that provided that that interest is duly paid and that the repairing, etc., covenants are duly kept, the principal should not be called in during the war and nothing should be payable in respect of it. After the war, instalments of mixed principal and interest should start to be payable again and should continue for a period extended by the same period as the ultimate length of the war. Such an arrangement would be fair to all parties and squares with the existing current belief about the effect of war legislation.

Landlord and Tenant Notebook.

Pleasure Grounds and Compensation for Disturbance under A.H.A., 1923.

THE Agricultural Holdings Act, 1923, is a very comprehensive measure: generally speaking, it applies to any tenancy of a farm the term of which is not less than from year to year. But some of its provisions are modified in certain cases, and an instance which is likely to attract attention under present conditions is the special provision for compensation for disturbance when the land forms part of "any park, garden, or pleasure ground attached to and usually occupied with the mansion house, or any land adjoining the mansion house which is required for its protection or amenity" (s. 12 (10)). It is obvious that many landlords will now be willing to let, and many farmers willing to take, land of this description, though two months ago it might have been unlettable.

The tenant's eventual title to compensation for disturbance in such a case will depend in the first instance on whether his landlord "without good and sufficient cause, and for reasons inconsistent with good estate management terminates the tenancy by notice to quit." The measure is much the same as in ordinary cases: but "fixtures" is omitted from the articles the sale or removal of which may occasion loss, and there is no provision for costs of preparing a claim, and no presumption in favour of one year's rent. The provisoes are much fewer, but the tenant must give facilities for valuation and give notice within two months of receiving notice to quit and make his claim within three months after quitting, and there is no compensation when the original tenant dies within three months before the date of the notice to quit.

Of the above provisions, that most likely to lead to argument is the qualifying condition of "without good and sufficient cause, and for reasons inconsistent with good estate management." This was formerly, under the 1908 Act, one of the two alternative conditions precedent to compensation for disturbance in the case of any holding, and what authority we have is to be found in decisions under that Act.

What authority we have, however, includes a very thorough analysis of the provision by Lord Dunedin, given in *Brown* v. *Mitchell* [1910] S.C. (Ct. of Sess.) 369.

One point considered in his lordship's judgment in that case was that of the onus. Is it for the tenant to prove that the notice was given without good and sufficient cause, etc.? Or "is the landlord bound to condescend upon the cause and reasons which led him to terminate the tenancy?" It was obvious, Lord Dunedin observed, that the person who had to bring the Act into effect must be the tenant. But the onus might shift from minute to minute as new facts were brought forward. The position was this: the tenant has to open the ball by saying that the landlord has terminated the tenancy without good and sufficient cause and for reasons inconsistent with good estate management. The next move is the landlord's, to show good cause.

Another question dealt with was whether "without good and sufficient cause" and "for reasons inconsistent with

good estate management" meant the same thing. His lordship's view was that the second phrase was merely expletive of the words that had gone before.

At all events, the effect was this: compensation was to be payable for capriciously putting an end to the lease. Now no one could possibly *ab ante* figure all the possible reasons for which a landlord might wish to get rid of a tenant. (Note here that s. 12 of the present Act sets out what are now to be considered valid reasons in the case of ordinary holdings.) But his lordship was satisfied that the reasons need not be "agricultural" reasons: it might be that the rent was too low, for "good estate management" meant getting as much as your property was worth; or it might be that the premises had been made the headquarters of low and disgraceful company; or it might be that the tenant was habitually insulting and disagreeable to the landlord and his family.

Now, as I observed in parentheses, the Legislature has, since 1908, enumerated and classified what are to be considered (in effect) good reasons for disqualifying the tenant of an ordinary holding for compensation for disturbance. These may be said to include the reason that the rent is too low: that is to say, refusal or failure to agree to a demand for arbitration as to rent is one of the reasons (s. 12 (1) (*e*)). Bad company and insulting behaviour are not represented, but when the demised premises are land attached to and usually occupied with the mansion house, or adjoining it and required for its protection or amenity, it is reasonable to suppose that the landlord would be able to justify his notice to quit in such circumstances.

In England, the first reported case is a courty court decision, also under the 1908 Act (*Clewlow* v. *Briscoe*), decided on 5th September, 1910, and reported 129 L.T. Jo. 450 and 45 L.J. 602. In this case Judge Harris Lea, sitting at Shrewsbury, examined the nature and object of the provision in much the same way as Lord Dunedin in *Brown* v. *Mitchell*. His Honour considered that it was not enough for the tenant to prove that he was a good tenant if, say, the landlord wished to amalgamate holdings, or alter boundaries and divide holdings, for reasons of good estate management; on the other hand, the tenant's rights were saved if the reason for the notice was a difference of political or religious views, or of views on the question of ground game.

A few years later the Court of Appeal, in *Re Bonnett* [1913] 2 K.B. 537, C.A., upheld the decision of the county court judge at Romford, who had respectfully concurred with Lord Dunedin's judgment in *Brown* v. *Mitchell* on the question of increased rent. "If the rent is too low and the tenant will not give more, that is a perfectly good reason, consistent with good estate management, for the determination of the tenancy," said Farwell, L.J.

There has as yet been no reported litigation on the question of what land falls within the scope of the special provision. One can say that "park, garden or pleasure ground [the two last-named were not in the 1908 Act] attached to and usually occupied with the mansion house, or any land adjoining the mansion house which is required for its protection or amenity" are fairly descriptive, giving one a good idea of what is intended; but when it comes to defining as opposed to describing, disputes may well arise. Some of the expressions used are ones the connotations of which have undergone modification in the course of time.

It will be seen that, whichever branch of the definition be invoked, there must be a "mansion house." The statute does not use the expression "principal mansion house" known to the Setttled Land Acts; but it does speak of "the" mansion house. The word has always connoted a house which is inhabitated, so the effect appears to be that the land must be attached to and occupied with the house in which the landlord resides, or must adjoin it and be required for its protection or amenity.

The word "park," in various forms, has a long history; it appeared in the Domesday Book as "parcus," and, according to Coke "parke" should be written "parque," and meant "a quantity of ground inclosed, privileged for wild beasts of the chase by prescription or by the King's grant"; and was distinguishable from a forest or chase in that it must be enclosed (Co. Litt. 233A). Enclosure and "beasts savage" were essential features (2 Inst. 199). One may compare or contrast this with the "parking places" of the Road Traffic Act, 1930, and Public Health Act, 1936. But, for the purposes of S.L. Act, 1890, s. 10 (2), Swinfen Eady, J., held, in *Pease* v. *Courtney* [1904] 2 Ch. 503, that those Acts did not use the word "park" in its legal or technical sense, but in the dictionary sense of "a considerable extent of pasture and woodland, surrounding or adjoining a mansion-house, devoted to purposes of recreation or enjoyment, but chiefly to the support of a herd of deer, though sometimes to cattle and sheep." This seems to fit in with the object of s. 13 of Agricultural Holdings Act, 1923. As to "garden," it may be worth nothing that it need not, according to the Scots case of *Macdonald* v. *Welsh*, 23 Rettie 995, contain flower beds, but may be kept entirely in grass. And as to "adjoining," there is authority for the proposition that this does not necessarily mean actually abutting on; e.g., *Cave* v. *Horsell* [1912] 3 K.B. 533, C.A.

With regard to the provisoes, I have mentioned that the tenant must give notice of intention to claim within two months of receiving notice to quit and must make his claim within three months after quitting. The notice of intention must be in writing; but, as was held in *Silvester* v. *Brown* (1916), 114 L.T. 930, there is no need to serve any written claim.

Our County Court Letter.

COMPULSORY WINDING-UP ORDER.

In a recent case at Birmingham County Court (*In re J. C. Freeman & Son, Ltd.*) a petition was presented for the above company to be wound up by the court. The case for the petitioning creditors was that the company was indebted to them in the sum of £1,558 13s. 3d. for building materials supplied. The company was incorporated in December, 1935, with a nominal capital of £1,000. There were only two shareholders (Mr. and Mrs. J. C. Freeman), and the company's business was that of building houses for sale to purchasers. The audited accounts at the end of 1938 showed a surplus of assets over liabilities of about £3,000. On the 13th April, 1939, however, the company was in financial difficulties, and a special resolution was passed for voluntary winding-up. A liquidator was appointed, and the statement of affairs showed a deficiency of over £18,000. At the meeting of creditors, held under the Companies Act, 1929, s. 238 (1), a resolution in favour of compulsory winding-up was passed with only one dissentient. The petition was opposed by the voluntary liquidator on the ground that, in spite of the resolution that the company be wound up by the court, a subsequent meeting of creditors had appointed a committee of inspection in the voluntary winding-up. This committee were the holders of proxies from creditors representing about one-third of the liabilities. There was, therefore, a division of opinion among the creditors as to the desirability of a compulsory winding-up, and there was no evidence that the voluntary winding-up could not be continued with due regard to the interests of the creditors, within the meaning of the Companies Act, 1929, s. 170 (2). His Honour Judge Dale observed that the appointment of the committee was without prejudice to the right of any creditor to support the petition—as stated in the resolution of appointment. As the majority of the creditors desired a winding-up by the court, the *primâ facie* case was not rebutted by the circumstances that there was no allegation of fraud, no debentures, and the liquidator had no previous connection with the company. An order was accordingly made as asked.

EXECUTION CREDITOR'S LIABILITY FOR TRESPASS.

In *Hamer* v. *Liddiard & Sheppard, Ltd.*, recently heard at Salford County Court, the claim was for £25 as damages for trespass. The plaintiff's case was that he lived at No. 57, Agecroft Road East, Prestwich, and had never had any transactions with the defendants, who were bookmakers. Two bailiffs, however, had walked into his house, without invitation, on being informed that "Mr. Hamer" lived there. They informed the plaintiff's wife that they were sheriff's officers, and, having produced a writ, they explained their business. The bailiffs had behaved with due propriety, but the plaintiff's wife was very upset, and two telephone calls were necessary to explain the mistake. The case for the defendants was that they had recovered judgment for £50 and costs against "S. Hamer." The sheriff's officer was accordingly instructed to levy execution at Ashcroft Road, Eccles. On being informed that there was no such road, the defendants made further inquiries and requested that a levy be made at 57, Agecroft Road, Prestwich. The officers were instructed to make full inquiries beforehand, and the defendants were therefore not liable for trespass. His Honour Judge Crosthwaite gave judgment for the plaintiff for £15 15s. general damages and 5s. as a doctor's fee, viz., £16 and costs. It is to be noted that, where a sheriff is misled by an indorsement on a writ of *fi. fa.*, an execution creditor is liable in trespass (see *Morris* v. *Salberg* (1889), 22 Q.B.D. 614). Where there is nothing untrue in the directions in the indorsement, which might mislead the sheriff, the action is not maintainable against the judgment creditor (see *Candy* v. *Blaiberg* (1891), 7 T.L.R. 424). It is a question of fact whether the writing of a letter to a bailiff is a mere direction to the officer to do his duty, or whether the terms of the letter constitute an interference rendering the writer liable for trespass (see *Cronshaw* v. *Chapman* (1862), 31 L.J. Ex. 277).

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Solicitors and The Law Society.

Sir,—Owing to the widespread publicity which my letter, appearing in your issue dated the 14th inst., has obtained, judging from the number of letters I have received from solicitors, I felt it incumbent upon me to accept an invitation from the Secretary of The Law Society to discuss the contents of my letter with him.

In fairness to the Council of The Law Society, I should be grateful if you would give equal publicity to this letter, as I think it only right to make known that the Council have been making every effort, of which I was unaware when I wrote my previous letter, to secure a right of audience for solicitors before hardship committees and appointments in positions where their services could be used to the best advantage during the war.

It was pointed out to me that where delicate negotiations are carried on by the Council from time to time, premature publicity of the steps which the Council are taking might be fatal to the success of their efforts.

Nevertheless, I may say that I have learned that in July of this year the Council approached the Ministry of Labour to secure for solicitors a right of audience on behalf of an applicant before the Hardship Committees set up under the Military Training Act, 1939.

Before these negotiations had been concluded, that Act was superseded by the National Service (Armed Forces) Act, 1939, and the Secretary has satisfied me entirely that the Council have made and are continuing to make every possible effort to secure a right of audience for solicitors before the Hardship Committees set up under that Act, and so ensure not only that solicitors are not deprived of work which should be within their legitimate sphere, but also that the public should not be deprived of a right which may result in a denial of justice.

I have also learned that the register of solicitors which the Council decided to prepare last April has been completed and has been brought to the attention of the Government Departments primarily concerned, and that steps have been taken to persuade the establishment officers that the fullest use should be made of this register for the purpose of filling vacancies in Government Departments where the administrative and other qualifications of solicitors would be especially useful.

Incidentally, before the appointment of the Alien Tribunals (on which there are three solicitors and not one as I said in my previous letter), the Council directed attention to the fact that by use of the register of solicitors, the Government could be supplied at very short notice with the names of solicitors suitable for appointment to those tribunals, who had, in addition, a knowledge of German.

In conclusion, I would like to add that it is a pity that the work the Council of The Law Society are doing on behalf of solicitors behind the scenes cannot be made known to the general body of solicitors, but I realise that the success of the Council's efforts is of paramount importance and that nothing should be done by which may prejudice that success.

London, W.C.2. WALTER FITZGERALD.
18th October.

Sir,—I suspect that the primary purpose of Mr. FitzGerald's letter, published in your issue of the 14th instant, is to have a dig at that hard-worked and under-paid body, the Council of The Law Society. He complains that, under the provisions of the National Service (Armed Forces) Act, and the procedure which governs the hearings taking place before the tribunals now inquiring into the cases of enemy aliens, solicitors have no right of audience and adds: "Surely it was the duty of the Council to bring pressure upon the Government."

Has Mr. FitzGerald satisfied himself that the Council is doing nothing in this matter? Unless he has his observation is hardly fair. He could hardly expect the Council to take action before the Bill was passed or the Rules for Aliens Tribunals issued, for they came into force before the public had any knowledge of their contents.

He also complains that "out of the hundred legal gentlemen appointed to inquire into the status of aliens, only one was a solicitor and he a member of the Council." For this also he blames the Council. Here Mr. FitzGerald is clearly wrong in his facts. If he will compare the list of the gentlemen who constitute the tribunals with the law list, he will see, I think, that at least half a dozen—there may be more—are solicitors, and that they are by no means all members of the Council.

London, E.C.2. "D. X."
18th October.

Sir,—I read with some astonishment the letter from Mr. FitzGerald in your issue of the 14th inst. It is only necessary for me to say that every one of his strictures against the Council of The Law Society is without any foundation whatsoever. It is astounding that any member of the Society should write to the Press such a letter without first taking the elementary precaution of ascertaining the facts. In Mr. FitzGerald's case, it is particularly astounding, because the Society is indebted to his partner Major Milner, M.P., for great assistance in the efforts which the Council of the Society have made in respect of the matters referred to by your correspondent.

London, W.C.2. RANDLE F. HOLME,
23rd October. President of The Law Society.

To-day and Yesterday.

LEGAL CALENDAR.

23 OCTOBER.—The romantic story of an eighteenth century highwayman brought two young journeymen bakers, called Dinham and Hyslop, to the Old Bailey dock on the 23rd October, 1877. Inspired by a book called "Claude Duval or the Dashing Highwayman," found in their possession, they had held up the assistant solicitor to the Treasury on Blackheath at the point of the revolver and robbed him. The jury, in convicting them, probably saw what their trouble was, and added a strong recommendation to mercy on the ground of their youth, but the Common Serjeant thought their crime too serious for less than seven years' penal servitude.

24 OCTOBER.—The dear old men who formerly occupied Greenwich Hospital, once the Naval equivalent of Chelsea Hospital, were sometimes short tempered. On the 24th October, 1757, Philip Kirby, one of the pensioners, was tried and found guilty at the Guildhall of assaulting one William Baynard in Petticoat Lane "and endeavouring to kill him with a four pound shot." He was sentenced to a fine of a shilling and twelve months' imprisonment in Newgate.

25 OCTOBER.—On the 25th October, 1773, William White, a deserter from the Coldstream Guards, was hanged at Tyburn for the murder of a farmer, whose body had been found on the Hammersmith Road with a fractured skull. Plain robbery was the motive. We are told that White "behaved in a very hardened and impenitent manner, refusing to join in prayers, and though he acknowledged the robbery, he denied the murder."

26 OCTOBER.—John Sotherton, who died at the age of eighty on the 26th October, 1605, lies buried with his two wives in St. Botolph's Church, Aldersgate. He had been a Baron of the Exchequer for more than twenty-six years before his death. Prior to his judicial promotion he had passed a long period as an officer on the administrative side of the Exchequer. The career of John, his son by his second wife, followed similar lines.

27 OCTOBER.—On the 27th October, 1832, Lord Tenterden, C.J., sat in court for the last time, being then attacked by a fatal illness.

28 OCTOBER.—Among the fifteen men condemned to death at the Old Bailey when the Sessions ended on the 28th October, 1772, Evan Maurice was the only one who had shown any ingenuity in his crime. He had paid his rent to his landlady and offered her a form of receipt which she had signed. This really consisted of two pieces of paper lightly stuck together to overlap, and by this device he obtained her signature to a blank sheet which he filled in as a promissory note for £103 10s. Such enterprises in those days had fatal consequences if discovered.

29 OCTOBER.—Even more ingenious and enterprising was Thomas Scott Smith, who threw London, and particularly the Parish of St. Martin's in the Fields, into consternation in 1801. The curate there had been looking for a deputy, and Smith had introduced himself not only as a clergyman but also as a nephew of Lord Eldon, the Lord Chancellor. He had been accepted at once, and had entered on his duties by performing several marriages and christenings. Next he had ordered a set of canonicals from a mercer in the Strand, saying that he was chaplin to Lord Eldon, but the tradesman, more prudent than the curate, had made inquiries in the proper quarter, and thus it came about that Smith, now revealed not even to be in holy orders, was tried on the 29th October for uttering a counterfeit £10 note and found guilty.

THE WEEK'S PERSONALITY.

In the last year of his life, Lord Tenterden's health steadily declined. To a friend he wrote in melancholy fashion: "I have lately suffered, and am still suffering, very severely from an internal complaint, which they call an irritation of the mucous membrane. It troubled me during all the circuit. I got rid of it for a short time at Leamington, but it soon returned with greater violence and has for some time deprived me of appetite and produced great depression of spirits." Yet despite his seventy years he remained tenaciously at his post and when the trial of the Mayor of Bristol for neglect of duty during the great Reform Bill riots came on the Chief Justice was there to preside. But the effort was too great. After the third day he went home without appetite, but fancying that fresh oysters would do him good he ate some. They disagreed with him, a fever supervened, and he retired to his bed. In his delirium he talked as if in court, and his last words seemed to be addressed to a jury. His motto was "Labore," and it was by unremitting work that this son of a Canterbury barber had raised himself to one of the highest positions in England, but he had none of the mental crudeness of so many self-made men. To the end the Latin and Greek classics were his unfailing delight.

LITIGANT IN PERSON.

The death of Bob Sievier, whose vivid personality found so much scope for its vitality in the racing world before the catastrophe of 1914, should not pass without a thought from the lawyers, for though he once said that a man who went to law when he could avoid it was "even a greater ass than the law itself," he was seen pretty often in the courts, and by his conduct in the case of *Wootton* v. *Sievier* in 1913 won a permanent place in legal memory. He appeared in person as defendant in a libel action brought against him by a famous trainer to whom he had ascribed grossly fraudulent racing methods. Throughout a long trial he stood up well to a formidable team of counsel, the future Lord Birkenhead, the future Bankes, L.J., and the future McCardie, J. As an auxiliary he enlisted Marshall Hall, who appeared for his paper "The Winning Post," in which he had published his accusations. His style of advocacy was unorthodox but effective, and he considerably irritated F. E. Smith by constantly repeating the words "Money talks," and holding up a farthing to the jury with a knowing wink which conveyed to them the suggestion they adopted when they awarded that amount of damages.

SCOPE FOR WIT.

Each party was followed into court by an enthusiastic *claque* which applauded every point made on one side or on the other. Mr. Justice Darling on the Bench was in his element with the fashionable world and the Bohemian world mingling before him. He made numerous jokes, some of them good. When a jockey who had been severely cross-examined about an occasion when he had run off after a race without weighing-in hurried out of the witness-box before being re-examined the judge interposed, saying: "Wait a minute. Mr. Smith has not weighed-in yet." On another occasion the defendant's questions caused him to remark: "All this assumes that all horses run with mathematical precision and that by studying what they had done before you could tell to a certainty what they would do in the next race. If that were so, then the person who would be the best authority on racing would be the Astronomer Royal." Sievier, in cross-examination of Wootton, was more than lively, and once when Darling checked him for going too far, he said: "I apologise to you Mr. Wootton at once. I can't do more than apologise. I can't withdraw from the case." The trial was certainly notable.

The dates fixed for the sessional sittings at the Central Criminal Court are as follows: 1939, 14th November, 5th December. 1940, 9th January, 6th February, 5th March, 2nd April, 23rd April, 28th May, 25th June, 16th July, 10th September, 15th October. Two dates are allotted to April next, as there is no sitting of the Court during the month of August.

The Law Society.

We are indebted to the President of The Law Society for giving us the opportunity of publishing the address prepared for delivery at the Fifty-fifth Provincial Meeting of The Law Society, which was to have been held at Worthing on the 26th and 27th September, 1939.

ADDRESS BY MR. RANDLE F. W. HOLME, B.A., President.

There is a wide choice of subjects open to a President of this Society in considering what is to be the subject of his address at the Provincial Meeting. He may content himself with a review of the Society's activities for the past year, or he may review the legislation of the past year or recent decisions of the courts; or he may call attention to anomalies in the law, as was done by Mr. W. H. Foster in his presidential address at the Society's Provincial Meeting at Bournemouth in 1929, and, to some extent, by Sir Reginald Poole in his address at Oxford in 1933, in the hope that, by calling attention to these anomalies, he may lead the authorities to remedy them; or he may base his address on some branch of the law in which he has had special experience. I propose to choose the latter, thereby following, I think, the precedent of other learned societies. For instance, the presidential address of the British Association for the Advancement of Science is generally given by some scientist who gives an account of his special science up to date; if he is an anthropologist he gives us some account of recent discoveries bearing upon man's origin and prehistoric life; if he is an astronomer he gives us an account of the latest explorations of space and their bearing on the nature of the universe; and I, for one, hope that the President of the British Association in 1941 or 1942 will be an astronomer, seeing that we are told that next year the new great telescope which is being erected on Mount Palomar in California will be in operation and will increase no less than eight times the volume of space that can be visibly inspected from this earth. In our branch of knowledge we cannot hope to discuss anything so interesting. No one could suppose that the law relating to contingent reversionary remainders or the rule in *Clayton's Case* could hope to command so much popular interest as the question of life on Mars, or the distance and number of the extra-galactic nebulæ, or whether space is so truly curved that, if you could look far enough to the East, your sight would finally come round and reach you from the West and you would see the back of your own head.

However, we must do the best we can with the materials to our hand and must unearth such interesting matter as we can find in the subjects with which we are familiar, and, undoubtedly, the more intimately one knows any subject, the more likely is it to reveal problems of interest. I propose also to inquire how far the anomalies to which attention was called by Mr. Foster and others have been remedied and to call attention to some other anomalies with which my own experience has brought me face to face. It so happens that the two subjects of which I have had special professional experience are taxation, particularly income tax, and the more exhilarating subject of the law relating to the sale and consumption of intoxicating liquors. On the subject of income tax, I propose to say very little to-day, as, by the kindness of our President in 1937, Sir Francis Smith, I was permitted to address you on that subject at the Provincial Meeting in Exeter in that year. I will only remark that I closed my observations with the following words, in which I was referring to the Report of the Royal Commission on Income Tax which had for many years been considering the subject of income tax and had produced a most illuminating report and drafted an admirable Codifying Bill:—

> "But I would venture in all seriousness to appeal to the powers that be, now that we have a Chancellor of the Exchequer who can appraise at its true value an excellent piece of drafting, not to relegate the draft Bill, produced by a Committee of eminent experts after some nine years of gestation, to the limbo of forgotten measures. Every income-tax payer would welcome such a simplification of the law which he is supposed to know. Is it too much to hope that the Government will take up this Bill in the coming session?"

Well, it *was* too much to hope, for nothing has been done, and meanwhile dust is accumulating on this valuable draft Bill which is becoming year after year more and more out of date as successive Finance Acts are passed, altering and confusing the law as it stood when the Commission's Bill was drafted. Now, in this respect, the law of licensing has suffered a similar experience, for in the years 1929 to 1931 a Royal Commission sat to consider that subject and produced Majority and Minority Reports in December, 1931. There were many recommendations of value in both reports and they showed that an overhauling of licensing legislation was long overdue. These reports have, unfortunately, met the same fate as that of the Income Tax Commission. They have been pigeon-holed and are gradually getting forgotten and out of date. Now it does seem to me to be a public scandal of the first magnitude that Ministers should casually refer some matter to a Royal Commission, and that, after a number of eminent and busy men, whose time is of value, not only to themselves, but also to the public, and who always take the reference most seriously and devote their most anxious thought and consideration to their report, when these gentlemen have produced a report, advocating legislation very often of a nature quite uncontroversial, their report should be treated as so much waste paper, and, as it were, thrown on the dust-heap. The Royal Commission on the Licensing Laws, consisting of eighteen gentlemen and three ladies, sat from 1929 to 1931, held ninety-seven sittings, called 189 witnesses, asked 39,998 questions (714 of which were addressed to me) and reported on 17th December, 1931, having cost the State £19,000; the Royal Commission on Income Tax, consisting of eleven gentlemen, sat from 1927 to 1936, held 154 sittings of the full committee, and hundreds of meetings of the drafting and other committees, considered memoranda supplied by nineteen bodies, including The Law Society, and produced their report on 12th March, 1936, consisting of 541 pages, in addition to a Bill of 417 clauses and eight schedules. Not the least notice has been taken of either, and I repeat that I consider this to be a public scandal of the first magnitude. Of course, we cannot expect that the same men among our legislators who have to deal with the aspects of war and peace, the alteration of European frontiers and similar matters of vast international importance, should also be expected to devote their attention to matters of only domestic interest, such as income tax and licensing legislation. But surely some arrangement might be made by which some of our 615 legislators, whose services are not required to consider great National questions, should devote their time to these subjects of the utmost domestic importance.

I have selected licensing law as the subject of my address, not only because it is a branch of the law to which I have given special attention, which is of great interest to a very large number of our profession, and which affects most of us in our daily lives, but also because it is one which, in my opinion, calls most clamantly for amendment.

The law of licensing is based on the simple proposition that you must not sell intoxicating liquor without a licence. This sounds a simple enough proposition. It is necessary to have a licence for dogs, motor cars, and wireless sets, but that has not resulted in an enormous volume of legislation and case law on the subject, whereas this simple proposition has given rise to a volume of statutory and case law which necessitates the publication of an annual volume known as "Paterson's Licensing Acts," first published in 1871, which, in respect of its annual appearance and the length and complexity of its contents, closely resembles that appalling, but wonderful, work with which we are all familiar, the "Annual Practice."

I propose first to give in a very few sentences the basis of the law on this subject, and then to point out the anomalies which it contains, which, in my opinion, require remedy. Some of those anomalies, as you will see, directly affect our profession. I doubt if any branch of law so loudly calls for amendment as this.

Without going back to prehistoric times—I do not suppose prehistoric men had any restrictions on the forcible acquisition or unlimited consumption of intoxicating beverages—it is sufficient for our purpose to go back no further than the Alehouse Act, 1828. The earliest Licensing Act seems, in fact, to have been an Act passed in the fifth and sixth years of Edward VI, in 1552. Under the Act of 1828 no one was to sell intoxicating liquor without an excise licence. That sounds easy enough, for it is as easy to take out an excise licence, if you can afford it, as it is to buy stamps. But this is followed by the provision that you cannot, except with some small exceptions, take out an excise licence for sale of liquor by retail unless you have first obtained a licence from the licensing justices, and that is where the trouble begins. It might have been supposed that even that would cause no great difficulty, but if you had supposed that you would have been very wrong, for this apparently simple provision has given rise to a code of laws as complex and extensive, I believe, as that of any other branch of the law.

Having got your justices' licence, and subsequently got and paid for your excise licence, you have to get both renewed annually, unless, as regards the justices' licence, it is a term licence, a matter to which I will refer later.

Provisions exist for the transfer of the licence from one person to another and its removal from one set of premises to other premises.

Until 1891 it was apparently supposed that justices could not refuse the renewal of a licence without some good reason, but, in the case of *Sharp* v. *Wakefield* [1891] A.C. 173, decided by the House of Lords in that year, it was held that justices had a discretion to renew or refuse the renewal of licences, a discretion which was unlimited except that it must be exercised reasonably and honestly. This caused much weeping and gnashing of teeth, until Mr. A. J. Balfour, as he then was, came to the rescue in 1904 with the statesmanlike proposal that, if a licence was refused for any reason other than the misconduct of the licensee or defect of the licensed premises, compensation should be paid to the holder out of a fund to be provided by a levy on all on-licensed premises in the same county which were licensed before 1904. The same Act of 1904 provided that, as regards licences subsequently granted, monopoly value should be paid to the State, i.e., a sum estimated to represent the value of the premises as licensed over their value as unlicensed premises.

The above being the basic structure of the licensing legislation, I now proceed to point out certain anomalies and hardships which have been allowed to grow up and which, in my opinion, call for remedy. The amendments for which I press are for the most part contained in either the Majority or the Minority Report of the Royal Licensing Commission, and I repeat that it is no less than a scandal that no steps have been taken to remedy the defects so revealed.

Often, when application is made for a new licence, all kinds of people come before the Licensing Justices and, in rather a wild way, make speeches and take objection to the application. In my opinion no objection should be heard except after notice stating the grounds and except on oath, and no one should be allowed to appear as an advocate except solicitors or counsel. Let me read you an extract from the *Methodist Recorder*. "An effective fight against the encroachments of the liquor traffic should be waged at the brewster sessions . . . Even if your opposition is unsuccessful you will have a finer opportunity for propaganda for temperance principles than a score of crowded temperance meetings would give you." That shows the attitude of the kind of people who go to these meetings (which, though technically not courts of law, are, nevertheless, judicial tribunals) when applications are being made for new licences. In the *Christian World* a letter was addressed to the editor in the following terms: "Sir, the annual brewster sessions will be held between February 1 and 14 . . . each application should be opposed by the Minister and others interested in the local social welfare. Notice of objection and a solicitor are not necessary, though the latter is desirable."

Well, at least it is satisfactory to know that the writer regards a solicitor as desirable.

The extracts I have just read were written some years ago, but have been repeated in a different form every year.

And now I quote the following from THE SOLICITORS' JOURNAL of 8th March, 1930: "The *Bromley Mercury* recently gave publicity to a question of considerable interest to practitioners who engage in licensing matters. It appears that at a recent meeting of the justices, when applications were being considered, a spokesman appeared on behalf of the National United Temperance Council and proposed to cross-examine witnesses. A member of the legal profession protested, on the ground that the objector was not a local person; he had no local interest and was just a professional opposer. 'I protest,' he went on, 'against his being allowed to usurp the role of advocate.' . . . There is here a matter of principle. It is not merely a question whether the rights of the legal profession are being infringed, though even that is not negligible. The point is whether an ardent temperance advocate ought to be heard in every locality in which he chooses to appear, or whether, as suggested by the protesting solicitor in this instance, a 'professional opposer' with no local interest in an application should be refused a hearing. Our own view is that a person who opposes an application ought to be in a position to show a local interest and to be qualified to give expression to the opinion of the local community. We think, moreover, that to be qualified to give expression to local feeling the opposer should have first-hand local knowledge of the district, its people, its needs and its views. He should not merely appear as an advocate brought in from outside and given a sort of brief as a spokesman. That kind of appearance, surely, should be confined to barristers and solicitors who can be properly instructed to represent any person or body of persons entitled to be heard. It is true that licensing justices considering these applications are not a court of justice. Nevertheless we think that appearances before them should be regulated, as far as possible, so that there should not be anything approaching an indiscriminate right of audience. Everybody entitled to be heard should be heard; but others should be precluded from taking a part in the proceedings, not as a matter of punctilio, but as a matter of principle." Obviously the difficulty, which is a real difficulty, would be best met by allowing no opposition to an application for a new licence without four conditions: first, a notice stating grounds; secondly, evidence on oath; thirdly, that no one should be heard except a person who can show a personal interest or a solicitor or counsel; and further, that the Bench should have the power to order an unsuccessful opposer to pay the costs.

Well, if your application should successfully run the gauntlet of this indiscriminating opposition, you are by no means out of the wood, for the grant in your favour has to be confirmed by a different authority, known as the confirming authority. This is in effect an appeal by the unsuccessful objector. I take no objection to this in principle, for indeed I am in favour of appeals from decisions of all inferior tribunals. The existence of the right of appeal is the best preventive of unreasonable decisions. There is a maxim of Hobbes: "The fear of punishment maketh men just." I would adapt that as follows: "The fear of being reversed on appeal maketh inferior tribunals watch their step." But what is sauce for the goose is here, unfortunately, not sauce for the gander, for, while an unsuccessful objector has a second chance by opposing before the confirming authority, an unsuccessful applicant has no right of appeal at all. There should be a right of appeal from a refusal to grant a new licence. This indeed was the law until 1872, when the right of appeal, existing under earlier statutes, was for some reason taken away. My late partner, Mr. William Godden, made the same suggestion when giving evidence before an earlier Royal Commission, viz., the Peel Commission in 1897.

The appeal should be as usual to quarter sessions. It is implicit in this suggestion that the confirming authority should be abolished and that appeals, whether by the applicant or by the objector, should be to quarter sessions.

But, having at last surmounted all opposition and got your licence, you will find your difficulties are only just beginning, for your licence, with certain exceptions, has to be renewed every year, and although objections to renewal do have to be on oath, and the scandal of outside interference on applications for renewal is less than on applications for new licences, nevertheless the scandal exists. Frivolous objections are frequently made, and it would be a great advantage if licensing justices had power to order an objector to a renewal, if unsuccessful, as well as an opposer of an application for a new licence, to pay the costs. All litigation is liable to frivolous applications, and the best, if not the only, protection against them is that people should have to pay the costs if they fail and if the tribunal holds the objection to be frivolous.

And now I come to a hardship to the remedy of which I should think no one could object and which one can only suppose arises from an error of drafting the Act of Parliament. Section 34 of the Licensing Act, 1910, provides that a justices' licence granted to a disqualified person shall be void, and s. 35 provides that a person who has been convicted of felony shall be disqualified for the rest of his life. The peculiarity is this. If my tenant during the term of his tenancy commits a felony I can take steps under s. 87 to preserve the existence of the licence; but if it turns out that without my knowledge he had previously committed a felony, it may be years ago, before he became a licensee, and that is discovered, then the licence is void and irrevocable altogether. It is quite evident that the provisions of s. 87 which enables you to preserve the existence of the licence if the licensee during its continuance commits a felony should be extended to cover the case where it is discovered that he had committed a felony before he became your licensee.

Thus: In the case of the "Windsor Hotel" at Senghenydd, in Wales, the licence had been in existence since 1904 without complaint. In 1923 the licence was transferred to a man named Gray. It subsequently turned out that in 1920 Gray had been convicted of a felony, viz., stealing some wood of the value of 5s., the property of a railway company, for which he was sentenced to fourteen days' imprisonment. This resulted in the licence being void, and the owners had to take out a new licence for which monopoly value of £5,000 was asked.

Even s. 87 is defective and requires amendment. It contains provisions protecting a licence from forfeiture in case of certain convictions, so that by taking the necessary steps the owner of the house can keep the licence alive although the tenant is convicted during the period of his holding the licence. But for some reason which I cannot understand that right is limited to certain cases. The power which the justices have now in their discretion to preserve a licence in the event of conviction should obviously not be limited to certain convictions but should apply to all convictions.

I mentioned in my opening remarks that in 1904 Mr. Balfour introduced legislation imposing monopoly value on all on-licences granted after that date, the amount payable being the difference between the value of the premises as licensed and the same premises unlicensed. In this connection, Mr. Foster, in 1929, called attention to the following as being a grotesque injustice which ought to be altered. He said: "The Licensing Acts contain the very proper provision" (I may mention that its propriety is now very much in question as I will explain later) "that, where a new licence is granted, the grantee should have to pay to public funds what is called monopoly value, that is, the value of the licence which he obtains. The licence so granted may be either a seven-day or a six-day licence. Presumably the monopoly value of a six-day licence is, roughly, six-sevenths of the monopoly value of a seven-day licence. If, with the full consent of the licensing justices and all concerned, it is desired to change an existing six-day licence (for which monopoly value has been paid) into a seven-day licence, it might be supposed that the monopoly value then payable would be about one-sixth of that paid originally on the grant of the six-day licence. But no; the Act is so framed that in such a case full monopoly value based on a seven-day licence must be paid, no allowance being made for the fact that a six-day licence has already been paid for. The same absurdity arises if an early closing licence is changed into an ordinary licence. How can this possibly be defended by any principle of law, equity, logic, morality, theology, philosophy, or common sense? The desirability and necessity of the repeal of these absurd provisions is admitted by Ministers, but the reason given why the matter is not attended to is because Parliament has no time." The same anomaly also arises where it is desired to exchange a beerhouse licence for a full licence. No allowance is made for the value of the beer licence in such a case. And again where a licence is granted with some condition. There are many such cases where it is desired to take off the condition. The licensee desires it, the police desire it, and the justices desire it, but it cannot be done. The only possible thing to do in the circumstances is to close the house, wait for a year, and then take out a new licence, paying full monopoly value. To do that is in most cases practically impossible, so that actually there is an impasse.

This hardship is particularly evident in Wales (which for this purpose includes Monmouthshire) where total Sunday closing prevails for licensed houses (though not for clubs). Every licensee there is naturally tempted to save one-seventh of his licence duty by converting his seven-day licence into a six-day licence. But he dare not do so because, hoping against hope that some day, at any rate in Monmouthshire, this Sunday closing provision will be terminated, he knows that if he accepted a six-day licence he could never reconvert it into a seven-day licence except on paying full monopoly value.

The proper solution is the abolition of monopoly value altogether. It contributes a comparatively small sum to public funds—only £316,060 in 1938 out of a total of nearly 98 millions (the total of excise and licence duties in that year)—and it causes endless difficulties, reacting on many of the provisions of the Act. It checks improvements and enlargements and thereby deprives the State of more by way of reduced property tax and licence duty than ever the State gets by monopoly value. It is illogical and unfair, for a licensee pays licence duty for the very privilege for which he has already paid monopoly value. Its abolition was recommended by both the Majority and the Minority Reports of the Royal Commission and is long overdue.

When monopoly value was unfortunately invented in 1904, the idea of term licences was devised. The idea seemed a good one, that if a man was paying a sum of money for a licence he should have some security of tenure. Unfortunately, the system has been made use of by the authorities for quite a different purpose. It enables them to review the amount of monopoly value from time to time. They say, let us have three-year terms, so that at the end of three years we on the Bench have an opportunity of reviewing the monopoly value. In my opinion that is an entire misconception of what the Act means. When I pay monopoly value I am purchasing from the State a licence. I am buying it for better for worse, for richer for poorer. The idea of review is to me rather extraordinary. If I put money into any other investment and it goes up, I am very surprised if the vendor asks me to increase the price; if it goes down, I should find it perfectly useless to ask him to reduce the price. I submit that the suggestion, as a reason that there should be term licences, that it is desirable to review the monopoly value, is a bad reason. Monopoly value, if it is to be allowed to continue, should not be reviewed, but should be paid once for all.

I suppose no one would deny that improvements and modernisation of licensed premises are desirable in the public interest. It is therefore surprising to find that our law should contain provisions which in their effect are the means of checking or discouraging improvements. Licensed houses exist for the public convenience. One would expect, therefore, in a well-conceived scheme of legislation to find provisions designed to prevent their deterioration; to find provisions which have the opposite effect must come as a shock to any student of our jurisprudence. That this is the fact there is undoubtedly no shadow of doubt whatever. I heard with distress the following answer given before the Licensing Commission by Mr. Keen, Chairman of the Holborn Licensing Justices: "Enlargements to public houses are usually desirable as they give better accommodation to the public . . . the magistrates are inclined to refuse them because no monopoly value is paid." That was a most distressing statement. Here is a Bench of magistrates set up to consider applications in the public interest. An application is made to them which in their opinion in the public interest should be granted. They refuse it. Why? Because in their personal opinion they disapprove of or disagree with the scheme of legislation which does not impose monopoly value on improvements. I am glad to say magistrates are much less obstructive now than in former years, but in some districts that obstructive tendency is by no means ended. Justices should have no power to refuse applications for alteration if the alteration will render the licensed premises better adapted for the convenience and comfort of the public as regards the provision of refreshment and recreation and does not interfere with the proper conduct of the business; secondly, there should be an appeal to quarter sessions on this question, as was suggested by the Southborough Committee (Southborough Committee Report, para. 61).

You will remember I mentioned that Mr. Balfour, in 1904, introduced legislation providing for compensating owners of pre-1904 licences which are refused renewal through no fault of their own, i.e., neither misconduct of the licensee nor defect of the premises. This fund is built up by annual payments by all owners of pre-1904 on-licences in the same county into the fund, which is exactly analogous to any other insurance fund. Unfortunately a practice has grown up of diverting to a large extent the compensation fund to other purposes. It arises in this way. When local authorities acquire property for public improvement, of course they have to pay market value for what they acquire, and they do so. Sometimes, however, they manage to get back part of what they have paid, if there are licensed houses in the property acquired, out of the compensation fund. The point arose originally the year after the Act was passed. The Leeds Corporation were acquiring some properties for public purposes, including a large number of licensed houses. Somebody on the corporation side had the idea that they might get some money out of the compensation fund. Accordingly, having acquired the houses, they gutted them, ceased trading and put in corporation dustmen as caretakers. Having put in these caretakers, the licences were transferred into their names. By an arrangement (it seems almost incredible) between the corporation and the licensing justices, those houses were referred and compensation was paid to the corporation as owners of the licences, although there was no business being carried on and the licensees were merely dummies. The name of the case is *The Lord Mayor of Leeds* v. *Ryder and Others* [1907] A.C. 420. The Court of Appeal held, as one would have expected, that what had been done was perfectly indefensible. But to my astonishment the House of Lords took the opposite view. Lord Loreburn from the Woolsack said that he saw no objection to arrangements being made between owners of public houses and the Licensing Bench with a view to the suppression of licences under the Act, a remark which is quite inconsistent with another part of his judgment in which he states that the Bench must act honestly and endeavour to carry out the spirit and purpose of the Statute. The spirit and purpose of the Statute is not to assist local authorities to acquire properties for their own objects, but to compensate persons whose licences have been taken away through no fault of their own. Anyhow, that decision was given in 1905. It stands. The Leeds Corporation were whitewashed. Other corporations have helped themselves liberally to that whitewash ever since. The compensation fund has been diminished considerably by this dipping into it. Mr. Loxton, Clerk to the Walsall Licensing Justices, before the Licensing Commission, said: "I think it is better to preserve an absolutely independent, and the appearance of an absolutely independent, administration of the licensing law; that there should be no suspicion that there was any collusion between the council as owners of the property and the licensing justices as grantors of the licences." Unfortunately, Parliament in the Housing Acts has

perpetuated the anomaly. But when a corporation is starting an improvement scheme and has to acquire property to carry it out, and the property includes licensed houses, how can it be right that part of the purchase money should come out of the compensation fund? Those licences are refused simply because the houses as buildings are ceasing to exist. Of course, public improvement ought to be paid for by the public and not by the subscribers to the insurance fund. It is not only my personal view. I have already quoted Mr. Loxton. Mr. Dingle, Clerk to the Sheffield Licensing Justices, before the Licensing Commission, said: "Here you have a compensation fund built up entirely by contributions from the trade or practically so. Under the section"—that is s. 47 of the Housing Act, 1925, now s. 47 of the Housing Act, 1936—"the principle of the matter is put on one side and a local authority is enabled to dip into the fund to which they have not contributed. It does not seem quite fair to me." I entirely agree. Unfortunately the House of Lords thought it fair, and Parliament seems to think it fair. I still am of opinion that it is quite unfair and should be altered.

Another anomaly to which I desire to call attention is the composition of the compensation authority. The Licensing Justices have the right to refuse renewal of a licence only on certain grounds, which may be described shortly as misconduct of the person or defect in the premises. In the absence of either of these grounds, all they can do is to refer the matter to the compensation authority. The compensation authority, therefore, acts as a quasi-appellate tribunal on the question from the renewal authority. They have no original jurisdiction. In non-county boroughs and country districts this quasi-appeal is from the licensing justices to a committee of the quarter sessions of the county. That gives a perfectly independent and satisfactory tribunal. But in county boroughs the renewal authority is the borough licensing committee and the compensation authority is the borough justices, or a committee of them. On that I may quote from "Paterson," 49th ed., p. 472: "The result is that in a county borough the renewal authority and compensation authority may be composed of exactly the same persons, though one is supposed to act on a 'reference' from the other, and as a quasi-court of appeal therefrom." You may imagine that nothing could cause more ill-feeling and complaint than that. A case on this point came before the Divisional Court, the case of *R.* v. *Sheffield Justices*, Licensing Law Reports, 1927, p. 127. Mr. Justice Avory, in his judgment, said: "This rule" (meaning the rule for *mandamus* which was being applied for) "does not specifically raise any question about the constitution of the compensation authority, but, having been informed of what the facts were, I think it right to say that although it may be that the committee who acted as the compensation authority were strictly within the letter of s. 6 of the Consolidation Act, 1910, I am satisfied that the appointment of the same justices who acted on the borough licensing committee as licensing justices for the borough to be the committee to act as the compensation authority is contrary to the spirit of the Act, which contemplates that the compensation authority shall be, at all events, a different body from the licensing justices. That view is expressed by Lord Justice Farwell in *R.* v. *Shann*. It is idle to say that in this case the licensing justices and the compensation authority are distinct and independent bodies. They were the same persons, they were dealing with the same matter, and they were sitting on the same day, in both capacities." The matter is made worse by the fact that s. 19 of the Act of 1910, oblivious of the maxim "*Nemo sit judex in sua causa*," allows the renewal authority to appear before the compensation authority on the hearing of this reference. Therefore you are treated to this Gilbertian spectacle—there are some of a body of men sitting on the Bench hearing an appeal, and others of the same body appearing before them. This led to the unfortunate occurrence which resulted in an appeal to the House of Lords in the case of *Frome United Breweries Co., Ltd.* v. *Bath Justices* [1926] A.C. 586. In that case something was proved that very often cannot be proved. It was proved that gentlemen sitting on the Bench had actually instructed the advocate appearing before them as representing the renewal authority to oppose the renewal of the licence. I ask you to put yourselves in the position of the applicant for that licence. He entered the court and found sitting on the Bench gentlemen who had instructed the advocate appearing against him. I cannot do better than use the words which were used by a reporter of a journal in connection with that case: "Had the applicant briefed the Archangel Gabriel, had he arrived in court armed with the spear of Ithuriel, he could hope for no success in his suit before a tribunal so constituted and against an advocate so instructed." Most astonishingly the Court of Appeal by a majority whitewashed what had happened. But the case went to the House of Lords, and there the order was unanimously quashed. The result of that case, therefore, is that, if a man is sitting on the Bench, he is debarred from instructing a solicitor or advocate in the matter (which will not surprise you). But, although that is so, the hardship to a large extent remains. In the first place, it is seldom possible to ascertain who has instructed such an advocate. In any case it is a most invidious inquiry. Therefore, many cases may still happen where the same injustice takes place, although you cannot prove that it has happened. But even if no one on the Bench has instructed the advocate, there is still this objection. Here is a committee forming the renewal authority, and some of that committee sit on the Bench and some have instructed an advocate to oppose the renewal. That is almost as bad. A man must necessarily be swayed by the fact that his own colleagues are appearing before him. Of course in county boroughs an independent compensation authority should be set up. I am not greatly concerned as to who or what the independent authority should be as long as it is independent. The natural tribunal would be, as in other cases, the county quarter sessions.

I have mentioned that there are provisions in the Statutes for removing a licence from one set of premises to another. There are two kinds of removal, viz., an ordinary removal and a special removal. As to an ordinary removal, this may be granted by justices in any case at their discretion as in the case of the granting of a new licence, and all that I have said about new licences applies equally to ordinary removals, except that no monopoly value is payable. Special removals are granted where the licensed house has been destroyed, e.g., by fire, or where it has been or is about to be pulled down by the authorities for some public purpose. The Bench are bound to grant the application so long as the new premises are fit and convenient. Two anomalies arise here which call for amendment. First, where the house has been burnt down and will presumably be rebuilt as soon as possible, the licensee, whose means of earning his livelihood are temporarily suspended, should be allowed to carry on his business in temporary premises as a makeshift and to return to the original premises when rebuilt. There is no such provision and there ought to be. Secondly, when the premises are being pulled down by the public authorities and will of course not be rebuilt and the matter is therefore not of the same urgency as in the case of a fire, a provisional special removal should be allowed, i.e., to be granted conditionally on a new house being built according to approved plans, as is already provided in the case of ordinary removals and new licences. There is no such provision, and there ought to be.

Now, having once got the licensed house firmly within their grasp, the legislature has proceeded to deal with several matters which are not strictly comprised in the question of the sale and consumption of liquor, such as music and games.

As regards music, generally speaking, a licence is required for music on licensed premises. It is my belief that the scope of music licences has been extended very much beyond the limits originally intended. I believe the original idea of a music licence was for a concert, or, at any rate, set music, but nowadays it is applied, in the case of licensed houses, to the most impromptu kind of performance. If the licensee or his wife plays the piano with any regularity for the customers, if they turn on the gramophone or wireless with any regularity, a music licence is required. I do not believe that that was really the intention of the legislature when it invented music licences, and I think the regulations go far beyond what is reasonable or necessary. In my opinion no music licence or consent of the licensing justices should be needed for music provided for the recreation of customers resorting to the licensed premises for refreshment, and not as an entertainment at which the attendance of the public is solicited by advertisement or otherwise.

Now, as regards games, for some reason which I cannot explain, the legislature apparently regards billiards as a most vicious form of human occupation. It limits the hours during which you may play. For instance you may not play billiards in an hotel before 8 o'clock in the morning. This reminds one of the canonical prohibition which forbids a man to marry his grandmother, to which the usual retort is, who wants to? I confess it is no hardship to me to be prevented from playing billiards before 8 o'clock in the morning, but, if some person who is unable to sleep after the sun is up wishes to do so, why on earth should the majesty of the law be invoked to prevent him? And you cannot play billiards at all on Sundays. You may play cards or darts or ping-pong, or almost any other game you like, but not billiards. I should have thought that if any game were wholly one of skill it is billiards, in spite of the fact that I know you may win a stroke by a fluke, and it has this advantage over most indoor games, that it provides a mild form of exercise. But you must not play it before 8 a.m. or on Sundays at all. So determined is

the legislature that you should not even be tempted to indulge, that it is provided that billiard rooms must be locked up and not used during hours when play is not allowed—a very inconvenient provision in the case of small houses. In the name of sanity, this should all be altered. There is another anomaly as regards billiards which should be abolished, viz., that a billiard licence is not required for a fully licensed house, but is required for a house licensed for the sale of beer only. Why? Echo answers, why?

And, hard though it be to credit it, to make matters even more ridiculous, all these absurd provisions as regards billiards apply equally to bagatelle, whatever that is.

Another anomaly: if you are staying at an hotel and ask friends to dinner, while you, as a resident in the hotel, can have drinks at any time, your friends are not allowed to consume alcoholic refreshment after hours even if you, as host, give it to them. To take them to a private room makes no difference. I am sure many people do not realise that this is an offence. It is an absurdity which should be altered.

As regards disqualifying certain persons from sitting as licensing justices, the present law, generally speaking, disqualifies anyone interested in the licensed trade, but it does not disqualify persons who have shown themselves to be unfit to exercise the discretion given to such justices for reasons other than pecuniary interest. In 1910 a Royal Commission was appointed on the subject of justices generally, and their appointment, and I gave evidence before that Commission. I said: "To confine disqualifications to pecuniary interest is to overlook an important trait of human nature, viz., that prejudice is often quite as potent in guiding men's actions as pecuniary interest. The fact to which it is desired to call attention is that men sit on the licensing Bench who by their pledges, public utterances, or actions can be shown to be biased against the licensed trade, often even to the extent of advocating the absolute prohibition of the sale in any way of intoxicating liquor of any kind. The point is not what are the man's individual opinions or personal habits. It is not suggested that there should be any attempt at a test of conscience. It would, of course, be impossible, or at any rate useless, to inquire into views held privately and not publicly proclaimed. Undoubtedly there are many men who are in fact abstainers who are nevertheless excellent and impartial justices. What is suggested is that no man should sit on the licensing Bench and profess to exercise discretion as a licensing justice who has publicly expressed opinions incompatible with the exercise of that discretion." And after quoting the cases of *R.* v. *Great Yarmouth JJ.*, 8 Q.B.D., at p. 527, and *R.* v. *Rand*, L.R. 1 Q.B., at p. 233, and both the Majority and Minority Reports of the Peel Commission [pp. 9, 10 and 107], which support my proposition, I referred to two instances of Colonial legislation cited in the Blue Book on "Local Option (Colonies)," 1907. (Natal) [p. 26]. "The following persons shall not sit as members of a licensing board: . . . (*b*) any person belonging to an association pledged to the suppression or support of the liquor trade." And (Queensland) [p. 243]: "No person who is . . . (*d*) an officer or agent of any society interested in preventing the sale of liquor; . . . shall be appointed or act as a licensing justice."

I also quoted the evidence of the late Sir Robert Wallace (as he then was) before a Departmental Committee of the London Quarter Sessions in 1909 [Report, paras. 44 and 45], who drew attention to the aims of the United Kingdom Alliance, which was formed in 1853, with the object of "procuring the total and immediate legislative suppression of the traffic in intoxicating liquors as beverages." Sir Robert Wallace's suggestion, which I support, was that men should not be appointed justices and so enabled to sit on licensing benches who by the pledges, public utterances and actions of themselves or of any society to which they belong can be shown to be biased against the sale of all intoxicating liquors.

I will not dilate on the thorny topic of permitted hours, except to say that, having regard to the practice of weekly extensions and the inroads of the bottle party, one is almost inclined to wonder whether it is worth while keeping on the statute book provisions through which it seems so easy to drive a coach and four.

But I must refer to the unfair competition of clubs. I am not going to try and give you a definition of a club; no one has yet succeeded in doing that, though we all know what we mean by the word. What appears to be the sale of intoxicating liquor in a club is not in a properly conducted club a sale at all; the liquor is the property of the members, and is distributed to them at a price determined by themselves. There is therefore no sale, and that is the reason why liquor can be obtained on club premises without a licence.

There are, of course, a very large number of properly run clubs, and there is no reason why they should not continue to distribute intoxicating liquor to their members as always. But it is so easy to start a club that it is not surprising that it has led to abuses. You or I could open a club to-morrow morning; all one has to do is to collect twenty-five members, day a registration fee of a few shillings, and 6d. to the excise on every pound's worth of liquor purchased for the use of the club. A licensee, on the other hand, has to pay heavy duties and the compensation charge; he is bound by many restrictions, and is encouraged to spend money on food and accommodation, while he sees these unlicensed public-houses set up in competition with him in his own area. It is wrong, and something should be done to stop it.

The fact is that the reduction of licences resulting from the legislation of 1904 has paved the way for and largely been the cause of the rapid increase in clubs. Can anyone be found to say that it is better to take away a licence with all the stringent police regulations and inspection to which it is subject, if its place is to be taken by a club? Such a club may, for all practical purposes, be a public-house but subject to no supervision and no inspection, and with regard to the establishment of which the licensing justices have no say whatever either as to its being required, or as to the structural suitability of the building for such a purpose. Since 1904, 19,343 licences of public-houses have been extinguished, and compensation paid for them (apart from those which have been extinguished for misconduct or defect). On the other hand, in 1905 there were 6,589 registered clubs and at the end of 1937 there were 16,563. Future generations will find it difficult to understand the logic underlying a system which has produced this substitution and has already resulted in the partial exchange of a regulated system for one which is almost entirely free from any restrictions. Licensing justices have for years been reiterating their concern at their helplessness in the face of this club question, which seems to have proved too much for successive governments to tackle. Whenever the question has been examined, there has been unanimity that, whereas the majority of the clubs are carried on under proper conditions, there is a large minority which would never exist if it were not for the fact that they have been made possible by either the taking away of too many licences in a given area or by the refusal of justices to grant licences in a district where there is obviously a need for premises in which intoxicants can be obtained.

When vested interests have been allowed to grow up, as has been the case with clubs during the last thirty years, and particularly when their members are so numerous as to form a voting power of which election agents must take note, the question of interfering with them becomes more difficult year by year; but the ostrich-like attitude adopted by those in authority for some years past cannot but be looked upon as administrative weakness. The position has become almost unbearable. The old idea that a licence carried with it monopoly powers and value has almost lost its meaning. A licence may now be granted in an area where there is an obvious need for a licence, on the payment of a capital sum which represents the monopoly value of such licence; whereupon the real value of the monopoly may be promptly discounted by the establishment of competing clubs in the immediate vicinity of such licensed premises. Apart, too, from the monopoly value, there is the heavy licence duty which the retailer must pay annually for the privilege of selling intoxicants at the house. This licence duty is far greater than the insignificant club duty which is paid on the intoxicants purchased for distribution in a club, and it is incongruous that intoxicants sold under all the regulations which apply in licensed premises should be so heavily taxed when the same quantity of intoxicants may be supplied to the members of a club on a very much lower basis of taxation.

I have already referred to the fact that in Wales and Monmouthshire, where total Sunday closing prevails for licensed premises, clubs are exempt from that restriction. Can one imagine any more gross discrimination in favour of the unregulated club as against the regulated licensed house?

There is another provision in the Statutes which discriminates unfairly in favour of clubs. The hours during which liquor may not be sold in a public-house in the afternoon are fixed by the justices and are normally fixed at 3 to 5.30 p.m.; the hours during which liquor may be supplied in a club in the afternoon are to be fixed by the rules of the club. Consequently it is the practice for clubs of an unsatisfactory nature to be careful to fix their permitted hours at the times when liquor cannot be sold in a public-house. As Parliament apparently desires a break of two hours in the afternoon during which liquor cannot be sold or supplied, this discrimination allows Parliament's wishes to be flouted and is grossly unfair to licensed victuallers.

Early this year Lord Clwyd introduced a Clubs Bill in the House of Lords. It was rejected. Later, a Bill introduced by Major Rayner in the House of Commons was down for Second Reading but not reached. This exhausts the activity of Parliament on this subject during the present year, although, three years ago, Sir John Simon, then Home Secretary, said: "It is high time we made an effort to eliminate bogus clubs . . . it is the intention of the Government to introduce legislation to deal with the evil of bogus clubs . . . and we do intend to promote that legislation next session."

There are other anomalies in licensing law which call for amendment, but I have mentioned those which I think are the most important. At any rate, I have mentioned sufficient to show that a revision of the law is called for.

I will now turn for a moment to other branches of the law, and I will mention some of the anomalies to which attention has previously been called in presidential and other addresses before the Society and inquire how far they have been remedied.

Mr. Foster, in 1929, called attention to the gross hardship caused by the present law of aggregation for ascertaining rates of estate duty. This matter was discussed in an article in *The Times* of 24th January, 1939, so that it took about ten years for Mr. Foster's remarks to percolate as far as Printing House Square. *The Times* repeated Mr. Foster's criticisms of the law and pointed out the iniquity of requiring estate duty to be paid by a beneficiary at a rate ascertained by considering the estate as a whole; in other words, that what the dead man left and not what the living man gets is the basis of assessment. The anomaly works with special hardship in the case of gifts made during the testator's lifetime.

Then Mr. Foster pointed out two anomalies in the Housing Acts: first, that property was deemed to be insanitary and therefore not entitled to compensation, not because it was itself insanitary, but because it was surrounded by insanitary properties, and secondly, that provision for re-housing the working classes was taken out of the compensation paid to the owner of the property taken. Both these anomalies have been remedied by the Housing Act, 1936.

He even called attention to the absurdity of the twenty-mile speed limit for motor cars, which, as you know, has now been altered.

He mentioned the desirability of repealing the Parliament Act, 1911, the repeal of which Mr. Asquith said in that very year "brooked no delay"; this, as you all know, after nearly thirty years, remains unremedied.

He mentioned the unstatesmanlike provisions under s. 21 of the Finance Act, 1922, and ss. 31 and 32 of the Finance Act, 1927, which, in their effect, compel companies to distribute moneys as dividends, although the directors, who know their business best, desire to retain the amounts as reserves: this remains unremedied.

He urged the consolidation of the Solicitors Acts, which has been effected by the Solicitors Act, 1932; and

Finally, he urged the standardisation of the time for giving notices of appeal in various matters. This remains unremedied.

Sir Reginald Poole called attention to the following matters, which, in his opinion, required remedy:—

What he described as the mechanical arrangements at the Law Courts to prevent the waste of time of jurymen, witnesses, counsel and solicitors, a matter which I fear still remains unremedied.

The drafting of Acts of Parliament which lead to so much ambiguity and litigation, a matter which certainly remains unremedied.

The limitation of rights of appeal, and (although I am not sure that I altogether agree with that suggestion, for I am in favour of the widest right of appeal) since his suggestions were made the right of appeal to the House of Lords has been cut down.

He called attention to the anomaly that a husband should be liable for his wife's torts and contracts, a matter which has to some extent been remedied by the Law Reform Act, 1935.

Also to the anomaly of the out-of-date provision known as "restraint on anticipation," which has been abolished for the future by the same Act.

Also to the desirability of extending the grounds for divorce, a reform which has been obtained through the efforts of Mr. A. P. Herbert. Although the reform is not in all respects on the lines advocated by Sir Reginald Poole, yet, to a large extent, his suggested reforms have been adopted, and I feel no doubt that he agrees that the new law is a long step in the right direction; and

Also to the unreasonable provisions as to taxation of costs by a dissatisfied client—still unremedied.

Mr. James Whiteside, at Exeter in 1937, called attention to a large number of reforms called for in the provisions of the Summary Jurisdiction Acts, none of which so far as I know has been in any way remedied.

In the paper which I read at Exeter in 1929 on income tax, I called attention to one or two anomalies, and particularly the anomaly arising from the taxation of man and wife as one which leads to gross unfairness.

Since 1934 there has been rather more hope than before of revision of our laws, at any rate on points of principle, for, as you know, since that date a committee known as the Law Revision Committee has been sitting. Three of the members of the Council are, or have been, members, viz., Mr. W. E. Mortimer, Sir Reginald Poole and Mr. Haldane. They have already produced seven reports dealing with the following matters, some, though not all, of which have been translated into law:—

Actio personalis moritur cum persona; recovery of interest in civil proceedings; contribution between tortfeasors; liability of husband for wife's torts; liability of married women on tort and contract; limitation of actions; the Statute of Frauds; contributory negligence; and frustration, by which latter is meant the making of a contract impossible of performance by causes outside the control of the parties, the leading case turning on the lettings of seats for Edward the Seventh's Coronation which was postponed.

It is true we are not law makers. Our function is to help in the administration of the law, whatever it may be. But, necessarily, in the course of our practice, we are brought face to face with legal anomalies and are in a better position probably than any other class to appreciate the points where the present law presses most hardly, just as no one knows more acutely than the toad under the harrow the particular sharpness of each of its points. It is ten years since Mr. Foster made his survey, and I think it is desirable that at intervals of say, ten years, we should, as it were, take stock of these anomalies and see how far they have been remedied, although I doubt if I shall be here ten years hence, seeing that for a long time now it has become an arithmetical impossibility for the gods to love me.

Well, I have mentioned seventeen anomalies to which attention has been called at previous provincial meetings, of which eight have been remedied by subsequent legislation. Does this actually mean that someone in authority really reads these presidential addresses? Let us hope at any rate that some at least of the suggestions I have mentioned this morning will attract the attention of our legislators, and that not all of them will meet the same fate as that of the reports of the Licensing and Income Tax Royal Commissions.

And now, under our regulations, the time remaining until the mid-day adjournment is available for a discussion of the work of the Council, and we hope we shall receive from you to-day some useful suggestions. Rest assured, the Council do not object to criticism: indeed, we welcome it if it is reasoned, informed and intended to be helpful. We are living in difficult times. The political and international upheavals in which we are existing are not without their repercussions on the work and the responsibility of the Council. We are carrying immense responsibilities. Since I joined the Council about twenty years ago, the volume of its work, its responsibilities and its anxieties have increased many fold. We do our best. We have the good of the Society and the profession at heart. But let me quote the words used by Abraham Lincoln after his election as President of the United States of America at the outbreak of the Civil War, when he was suffering from unreasonable criticism. He said:—

"Gentlemen, suppose all the property you were worth was in gold and you had put it in the hands of Blondin to carry across the Niagara river on a rope. Would you shake the cable or keep shouting to him: 'Blondin, stand up a little straighter—Blondin, stoop a little more—go a little faster—lean a little more to the north—lean a little more to the south?' No, you would hold your breath as well as your tongue and keep your hands off till he was safe over. The Government is carrying an enormous weight. Untold treasures are in their hands; they are doing the very best they can. Don't badger them. Keep silence, and we will get you safe across!"

NOTE.—In according to the JOURNAL consent to reprint his address, the President also addressed an interesting letter to the Editor which would appear more appropriately reproduced here rather than in our usual correspondence column:—

Sir,—In my address, intended to have been delivered at the Provincial Meeting of The Law Society at Worthing, but which will now never be delivered, which you have kindly told me you will print in your issue of the 28th inst., I naturally confined myself, as it was intended to be addressed to a body of lawyers, to the consideration of licensing law

from the point of view of lawyers, whose duty it is to help in the administration of the law, whatever it may be. I should like, however, for the moment to quit that role and make the following observation.

We are told—and I accept the statement—that once upon a time drink was a social evil. It is common knowledge to all, except fanatics, that it is so no longer. It is not a social evil, but, on the contrary, a social good, for even if it sometimes does harm it does a great deal more good. The diatribes and onslaughts of the teetotal fanatics and the obstructive tactics of some magistrates are a rudimentary survival—like the appendix in man, which is said to have been useful once, but is worse than useless now. They continue to inveigh against an evil which has long since ceased to exist. They are fighting an enemy which is no longer there. Some day I suppose they will discover this self-evident fact, and then we may hope to be spared some of those unfortunate outbursts and unfair tactics to which I referred in my address as sometimes taking place at meetings of licensing justices.

16th October. RANDLE F. HOLME.

Societies.

Law Association.

The usual monthly meeting of the Directors was held on the 2nd October, Mr. Ernest Goddard in the chair. The other Directors present were Mr. Guy H. Cholmeley, Mr. G. D. Hugh-Jones, Mr. C. D. Medley, Mr. F. S. Pritchard, Mr. John Venning, Mr. William Winterbotham and the Secretary, Mr. Andrew H. Morton. The sum of £329 was voted in relief of deserving applicants, and other general business was transacted.

Rules and Orders.

SUPREME COURT, ENGLAND.

PROCEDURE.

THE RULES OF THE SUPREME COURT (No. 2), 1939. DATED OCTOBER 19, 1939.

[S.R. & O., 1939, No. 1468/L.24. Price 1d. net.]

We, the Rule Committee of the Supreme Court, hereby make the following Rules :—

1. Rule 11 of Order LXIV shall be revoked and the following Rule shall be substituted therefor :—

"11. Service of pleadings, notices, summonses, orders, rules, and other proceedings, shall be effected before the hour of four in the afternoon, except on Saturdays, when it shall be effected before the hour of twelve noon. Service effected after four in the afternoon on any week-day except Saturday shall, for the purpose of computing any period of time subsequent to such service, be deemed to have been effected on the following day. Service effected after twelve noon on Saturday shall for the like purpose be deemed to have been effected on the following Monday."

2. These Rules may be cited as the Rules of the Supreme Court (No. 2), 1939, and shall come into operation on the 26th day of October, 1939, and the Rules of the Supreme Court, 1883, shall have effect as amended by these Rules.

Dated the 19th day of October, 1939.

Caldecote, C.	*Travers Humphreys*, J.
Hewart, C.J.	*C. J. W. Farwell*, J.
Wilfrid Greene, M.R.	*Walter Monckton.*
F. B. Merriman, P.	*Gerald A. Thesiger.*
A. C. Clauson, L.J.	*Douglas T. Garrett.*
Finlay, L.J.	*L. S. Holmes.*

LANDLORD AND TENANT, ENGLAND.

RENT RESTRICTION.

PROVISIONAL REGULATIONS, DATED OCTOBER 10, 1939, MADE BY THE MINISTER OF HEALTH UNDER SECTION 14 OF THE RENT AND MORTGAGE INTEREST RESTRICTIONS (AMENDMENT) ACT, 1933 (23 & 24 GEO. 5. c. 32), FOR PRESCRIBING CERTAIN FORMS OF NOTICES. [Price 2d. net.]

102565.

The Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into immediate operation, and in exercise of the powers conferred on him by section 14 of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, and of all other powers enabling him in that behalf, hereby makes the following regulations to come into operation forthwith as provisional regulations :—

1. These regulations may be cited as the Rent Restrictions Regulations, 1939.

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. The forms contained in the First Schedule to these regulations shall be substituted for the form contained in the First Schedule of the Act of 1920.

4. Every rent book or other similar document used by or on behalf of any landlord in respect of any dwelling-house to which the principal Acts apply shall contain a notice, in the appropriate form set out in the Second Schedule to these regulations, or in a form substantially to the like effect, of all the matters referred to in the said form :

Provided that the provisions of this regulation shall come into force in respect of dwelling-houses to which the Rent and Mortgage Interest Restrictions Acts apply by virtue of section 3 of the Rent and Mortgage Interest Restrictions Act, 1939, on the 1st December, 1939.

5. The Rent Restrictions Regulations, 1938, are hereby revoked but the revocation thereof shall not affect the validity of any notice given or application made thereunder before the date of these regulations. Nor shall the validity of any notice given or application made under the Rent Restrictions Regulations, 1934, prior to the 4th August, 1938 (the date of the Rent Restrictions Regulations, 1938), be affected.

FIRST SCHEDULE.

PART I.

Dwelling-houses to which the Rent and Mortgage Interest Restrictions Acts apply otherwise than by virtue of section 3 of the Rent and Mortgage Interest Restrictions Act, 1939.

FORM A.

(To be used when the tenant is in possession.)

Rent and Mortgage Interest Restrictions Acts.

Notice of Increase of Rent.

Date.....

To , tenant of

Take notice that the rent of the above premises will as from be per [and as from be per].

Details showing how this rent is made up are given below.

(Signed) .....

(Address) .....

		£ s. d.	
(*a*)	Standard Rent of the premises ..		per
(*b*)	per cent. of £ s. d. (the net rent of the premises)		,, ,,
(*c*)	per cent. of £ s. d. spent on improvements and structural alterations not including decorations and repairs to the premises ..		,, ,,
(*d*)	Increase of rates payable by the landlord in respect of the premises from £ s. d. in [1914] to £ s. d. for the current rating period		,, ,,
(*e*)	per cent. of £ s. d. being the net rent of the sub-tenancies (if any) in the house		,, ,,
	Total rent ..		

FORM B.

(To be used when the landlord is in possession.)

Rent and Mortgage Interest Restrictions Acts.

Notice to prospective tenant of increase of rent.

Date .....

To.....prospective tenant of.....

Take notice that the rent proposed to be charged for the above premises is.....per.....and is a rent which has been increased in accordance with the provisions of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939.

Details showing how this rent is made up are given below.

(Signed) .....

(Address) .....

		£ s. d.	
(*a*)	Standard Rent of the premises ..		per
(*b*)	per cent. of £ s. d. (the net rent of the premises)		,, ,,
(*c*)	per cent. of £ s. d. spent on improvements and structural alterations not including decorations and repairs to the premises ..		,, ,,
(*d*)	Increase of rates payable by the landlord in respect of the premises from £ s. d. in [1914] to £ s. d. for the current rating period ..		,, ,,

PART II.

Dwelling-houses to which the Rent and Mortgage Interest Restrictions Acts apply by virtue of section 3 of the Rent and Mortgage Interest Restrictions Act, 1939.

FORM A.

(To be used when the tenant is in possession.)

Rent and Mortgage Interest Restrictions Acts.

Notice of Increase of Rent.

Date .....

To , tenant of

Take notice that the rent of the above premises will as from be per [and as from be per].

Details showing how this rent is made up are given below.

(Signed).....

(Address) .....

	£ s. d.	
(*a*) Standard Rent of the premises ..		per
(*b*) per cent. of £ s. d. spent on improvements and structural alterations not including decorations and repairs to the premises ..		,, ,,
(*c*) Increase of rates payable by the landlord in respect of the premises from £ s. d. in [1939] to £ s. d. for the current rating period ..		,, ,,
Total rent ..		

FORM B.

(To be used when the landlord is in possession.)

Rent and Mortgage Interest Restrictions Acts.

Notice to prospective tenant of increase of rent.

Date .....

To.....prospective tenant of.....

Take notice that the rent proposed to be charged for the above premises is.....per.....and is a rent which has been increased in accordance with the provisions of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939.

Details showing how this rent is made up are given below.

(Signed).....

(Address) .....

	£ s. d.	
(*a*) Standard Rent of the premises ..		per
(*b*) per cent. of £ s. d. spent on improvements and structural alterations not including decorations and repairs to the premises ..		,, ,,
(*c*) Increase of rates payable by the landlord in respect of the premises from £ s. d. in [1939] to £ s. d. for the current rating period ..		,, ,,

SECOND SCHEDULE.

PART I.

Form of Notice to be inserted in every Rent Book, or similar document in respect of a dwelling-house to which the Rent and Mortgage Interest Restrictions Acts apply otherwise than by virtue of section 3 of the Rent and Mortgage Interest Restrictions Act, 1939.

1. Address of premises.....
2. Name and Address of landlord.....
3. Name and Address of agent (if any).....
4. The standard rent of the premises is.....per.....
5. The current rent includes £ s. d. per.....in respect of the permitted increase of [40] per cent. of the net rent, part of which is in respect of the landlord's liability for repairs.

6. If there is disagreement as to the rent properly chargeable, the landlord, tenant, or sub-tenant can apply to the County Court to settle the question.

7. If the tenant considers that the premises are not in a reasonable state of repair, he is entitled to apply to the sanitary authority for a certificate to that effect. Where a certificate is granted, and the tenant serves a copy of it on the landlord, the tenant may deduct from the rent the whole of the amount stated in paragraph 5 of this notice, until the landlord has executed the necessary repairs to the satisfaction of the sanitary authority. If, however, the landlord can prove to the County Court that the condition of the house is due to the tenant's neglect or default or breach of agreement, he can recover all or part of the money withheld.

Alternatively the tenant may apply to the County Court for an order reducing the rent. In that case he must satisfy the Court by producing a certificate from the sanitary authority or otherwise, that the house is not in a reasonable state of repair.

The address of the sanitary authority is.....
.....

8. If the tenant sub-lets part of the premises unfurnished he must give the landlord a statement in writing of the sub-letting, giving particulars of occupancy, including the rent charges. The penalty for failing to do this without reasonable excuse, or for giving false particulars, is a fine not exceeding £10. The particulars must be given to the landlord within fourteen days after sub-letting. Where particulars have once been given to the landlord, it is not necessary to supply them again if the only change is a change of sub-tenant.

9. Documents authorised or required by the Rent and Mortgage Interest Restrictions Acts to be served by the tenant on the landlord may be served on the agent named above or on the person who receives the rent, and if the full name and place of abode or place of business of the landlord is required for the purpose of proceedings under the said Acts, the agent or person who receives the rent must, on request in writing, disclose that information.

10. A landlord is entitled to apply to the County Court for an order for possession against a tenant who is overcharging his sub-tenant, and where the County Court has already fixed the proper rent for a sub-tenancy a tenant who overcharges his sub-tenant is liable to a fine of £100.

PART II.

Form of Notice to be inserted in every Rent Book, or similar document in respect of a dwelling-house to which the Rent and Mortgage Interest Restrictions Acts apply by virtue of section 3 of the Rent and Mortgage Interest Restrictions Act, 1939.

1. Address of premises.....
2. Name and Address of landlord.....
3. Name and Address of agent (if any).....
4. The standard rent of the premises is.....per.....
5. If there is disagreement as to the rent properly chargeable, the landlord, tenant, or sub-tenant can apply to the County Court to settle the question.

6. If the tenant sub-lets part of the premises unfurnished he must give the landlord a statement in writing of the sub-letting, giving particulars of occupancy, including the rent charged. The penalty for failing to do this without reasonable excuse, or for giving false particulars, is a fine not exceeding £10. The particulars must be given to the landlord within fourteen days after sub-letting or if the part was already sub-let on the 2nd September, 1939, not later than the 2nd December, 1939. Where particulars have once been given to the landlord, it is not necessary to supply them again if the only change is a change of sub-tenant.

7. Documents authorised or required by the Rent and Mortgage Interest Restrictions Acts to be served by the tenant on the landlord may be served on the agent named above or on the person who receives the rent, and if the full name and place of abode or place of business of the landlord is required for the purpose of proceedings under the said Acts, the agent or person who receives the rent must, on request in writing, disclose that information.

8. A landlord is entitled to apply to the County Court for an order for possession against a tenant who is overcharging his sub-tenant, and where the County Court has already fixed the proper rent for sub-tenancy a tenant who overcharges his sub-tenant is liable to a fine of £100.

Given under the official seal of the Minister of Health this tenth day of October, nineteen hundred and thirty-nine.

(L.S.)

H. H. George,
Assistant Secretary,
Ministry of Health.

War Legislation.

(Supplementary List, in alphabetical order, to those published each week in THE SOLICITORS' JOURNAL, *commencing 16th September to 21st October, inclusive.)*

Progress of Bills.

House of Lords.

Cotton Industry (Reorganization) (Postponement) Bill.
Read Third Time. [26th October.

Local Elections and Register of Electors (Temporary Provisions) Bill.
Read Third Time. [26th October.

House of Commons.

Prices of Goods Bill.
Read Second Time. [19th October.

Statutory Rules and Orders.

Nos. 1451 to 1458. **Administration of Estates** by Consular Officers (Estonia) (Finland) (Greece) (Hungary) (Japan) (Jugoslavia) (Thailand) (Turkey), Orders in Council, dated October 13.

No. 1417. **Adulteration.** Food and Drugs Act, 1938. The Sale of Milk Regulations, dated October 1.

No. 1448. **Alien.** Restriction on Landing and Embarkation. Direction, dated October 4.

No. 1436/S.104. **Constable,** Scotland. The Special Constables (Scotland) Order in Council, dated October 13.

No. 1461. **Courts** (Emergency Powers) Isle of Man Order in Council, dated October 19.

No. 1389. Courts (Emergency Powers) (Northern Ireland) Rules, dated October 2.

No. 1433. **Customs.** The Import of Goods (Prohibition) (No. 3) Order, dated October 13.

No. 1462. **Emergency Powers (Defence)** Order in Council, dated October 19, adding Regulation 42A to the Defence Regulations, 1939.

No. 1463. Emergency Powers (Defence). Order in Council, dated October 19, adding Regulation 46A to and amending Regulations 53 and 100 of the Defence Regulations, 1939.

No. 1464. Emergency Powers (Defence). Order in Council, dated October 19, adding Regulation 60A to the Defence Regulations, 1939.

No. 1469. Emergency Powers (Defence). Order in Council, dated October 19, amending Regulation 62 of the Defence Regulations, 1939.

No. 1465/S.105. Emergency Powers (Defence). Order in Council, dated October 19, adding Regulation 63A to the Defence Regulations, 1939.

No. 1428. Emergency Powers (Defence). The Acquisition of Securities Order, dated October 14.

No. 1427. Emergency Powers (Defence). The Securities (Restrictions and Returns) (No. 2) Order, dated October 14.

No. 1439. Emergency Powers (Defence). The Agricultural Returns Order, dated September 30.

No. 1480. Emergency Powers (Defence). The Animal Oils and Fats (Provisional Control) (No. 2) Order, dated October 20.

No. 1443. Emergency Powers (Defence). The Bacon and Hams (Borax Packed) (Returns) Order, dated October 17.

No. 1444. Emergency Powers (Defence). The Home Produced Bacon (Northern Ireland) (Distribution) Order, dated October 17.

No. 1482. Emergency Powers (Defence). The Butter (Requisition and Control) (Northern Ireland) Order, dated October 21.

No. 1467. Emergency Powers (Defence). The Canned Salmon (Returns) Order, dated October 19.

No. 1440. Emergency Powers (Defence). The Control of Communications Order (No. 3), dated October 16.

No. 1431. Emergency Powers (Defence). The Control of Dyestuffs Order, dated October 12.

No. 1473. Emergency Powers (Defence). The Control of Hemp (No. 3) Order, dated October 19.

No. 1474. Emergency Powers (Defence). The Control of Molasses and Industrial Alcohol (No. 4) Order, dated October 19.

No. 1475. Emergency Powers (Defence). The Control of Wool (No. 4) Order, dated October 20.

No. 1476. Emergency Powers (Defence). The Control of Wool (No. 5) Order, dated October 20.

No. 1478. Emergency Powers (Defence). Order, dated October 20, amending the Dried Fruits (Control) Order, 1939.

No. 1479. Emergency Powers (Defence). The Dried Fruits (Maximum Prices) (No. 2) Order, dated October 20.

No. 1426. Emergency Powers (Defence). The Herrings (Maximum Prices) Order, dated October 14.

No. 1449. Emergency Powers (Defence). Entering and leaving United Kingdom. The Passenger Traffic (No. 2) Order, dated October 4.

No. 1447. Emergency Powers (Defence). The Petroleum (No. 2) Order, dated October 13.

No. 1435. **Pension.** The Personal Injuries (Injury Allowance) Regulations, dated October 16.

No. 1466/L.23. **Prize Court Rules, 1939.** Order in Council, dated October 19.

No. 1438. **Public Health** (Northern Ireland) (Extension of Enactments) Order in Council, dated October 5.

No. 1450. **Road Traffic** and Vehicles. The Motor Vehicles (Armed Forces) (Variation of Speed Limit) Regulations, dated August 31.

No. 1425. **Shipping, Minister of.** The Ministers of the Crown (Minister of Shipping) Order in Council, dated October 13.

No. 1470. Shipping, Minister of. The Minister of Shipping (Transfer of Functions) Order in Council, dated October 19.

No. 1468/L.24. **Supreme Court, England.** Procedure. The Rules of the Supreme Court (No. 2), dated October 19.

No. 1424. **Trade Boards.** (Sugar Confectionery and Food Preserving Trade, Great Britain) (Constitution and Proceedings) Regulations, dated October 13.

No. 1441. **War Risks Insurance** (General Exceptions) (No. 2) Order, dated October 17.

Provisional Rules and Orders.

Landlord and Tenant, England. The Rent Restrictions Regulations, dated October 10.

Circulars, etc.

Stationery Office.

List of Emergency Acts and Statutory Rules and Orders issued and in the press. Revised to October 20, 1939. (An Index to the numerous Regulations made under the Civil Defence Act and other War legislation. The regulations are grouped under the subject to which they relate.)

Copies of the above Bills, S.R. & O.'s., etc., can be obtained through The Solicitors' Law Stationery Society, Ltd., 22, Chancery Lane, London, W.C.2, and Branches.

Legal Notes and News.

Honours and Appointments.

Mr. HAROLD STONES HAWORTH, Official Receiver for the bankruptcy district of the county courts at Blackburn, Clitheroe, and Burnley, has been appointed also Official Receiver for the bankruptcy district of the county courts at Preston, Chorley, and Blackpool from the 1st November, 1939, in the place of Mr. Harold Parker, deceased. Mr. Haworth was admitted a solicitor in 1902.

The Attorney-General has appointed Mr. CYRIL T. MILLER, Junior Counsel (Common Law and Proceedings under the Compensation (Defence) Act, 1939) to the Ministry of Shipping. Mr. Miller was called to the Bar by the Inner Temple in 1924.

Notes.

Messrs. Parker, Garrett & Co. announce that Mr. Frederick Spooner, their managing chancery and probate clerk, has retired after a period of fifty-seven years' service with the firm.

The next quarterly meeting of The Lawyers' Prayer Union is to be held on Monday, 6th November, in the Council Chamber of The Law Society at 5.30 p.m., preceded by half an hour for tea. An address is to be given by The Rev. Norman G. Dunning, M.A., a prominent Methodist Minister. His subject will be "Why be despondent?"

The Home Secretary has made Regulations under s. 71 (2) of the Factories Act, 1937, for printing and bookbinding factories fixing, from 29th October, 1939, forty-five as the weekly maximum hours of work for young persons under sixteen. A recommendation to this effect was made by the Commissioners who recently held a public inquiry regarding hours of juveniles in the printing and bookbinding industry, and who reported that the conditions specified in the Act are in general fulfilled.

The Inner Temple makes the following announcement as to the arrangements to subsist for the conduct of the Inn until further order: In order to comply adequately with the requirements as to obscuration of lights dining term is suspended and the central buildings of the Inn will not be available for the use of members except in daylight. Arrangements may be made later for use of essential parts of the library after court hours. The necessary dispensations from keeping terms by dining in hall will be granted. Luncheons of a simple character will be served in hall. Owing to

the absence of a large number of students from the Inn on service with the Forces no examinations will be held for scholarships or prizes at present, and no awards will be made.

Mr. Justice Atkinson recently commented on "last-minute" applications that cases should be kept out of the lists because counsel briefed in them were engaged on aliens tribunals. Everything possible should be done, he said, to meet the convenience of counsel who were doing public work of that sort for nothing, and he suggested that it would be helpful if longer lists could be published. Dates on which the tribunals were going to sit were known, and counsel could apply earlier that their cases should not be marked for those dates. But to have applications made the day before, or even two days before the cases came into the lists was very awkward, because it brought cases in which could not be expected to be reached.

The 700-year-old ceremony of rendering the City's quit-rent services was observed at the Law Courts on Wednesday, 18th October, when the King's Remembrancer, Master Jelf, witnessed the chopping of the faggots, and the tender of six horse-shoes as worn by the heavy Flemish war-horses. Those horse-shoes, the King's Remembrancer explained, were, with a bag of sixty-one nails, the rent-acknowledgment tendered for centuries for a forge in the neighbourhood of Australia House—a forge which, in pre-Tudor days, was indispensable to the tilting-ground of the Knights Templars at the back of the Law Courts. The faggots, which were formally chopped by a representative of the City Solicitor with a new hatchet, were in discharge of a rural rent for what was known as The Moors, a piece of waste ground in the county of Salop.

LONDON SCHOOL OF ECONOMICS.

One of the colleges of the University of London, namely, the London School of Economics, is proposing to re-open its evening law school on Monday, 30th October, at Canterbury Hall, in Cartwright Gardens. Lectures and classes will be held between 5 p.m. and 8 p.m. to prepare students for the degrees of LL.B., LL.M., and Ph.D. Prospective students will be interviewed at Canterbury Hall after 4 p.m. from Monday onwards.

Wills and Bequests.

Mr. Frederick John Argles, solicitor, of Maidstone, left £21,312, with net personalty £16,893.

The Right Hon. Sir John Meir Astbury, P.C., of Montagu Place, W., a Judge of the Chancery Division of the High Court of Justice, 1913–29, left £144,309, with net personalty £140,482. He left, on his wife's death, certain personal bequests, and the residue upon trust for his brothers and sisters for their respective lives and for the survivor of them with ultimate remainder to the Treasurer and Benchers of the Honourable Society of the Middle Temple, London, to form "the Astbury Scholarship Fund" to provide scholarships of not less than £200 per annum, each tenable for three years, for male members, past or present, of Oxford and Cambridge and who are members of the Middle Temple, preference being given to members of Trinity College, Oxford He directed that should the ultimate residuary legatees question or dispute any of the acts or proceedings of his executors in the administration of his estate they shall forfeit all benefits under his will, and the ultimate remainder should then be left to Trinity College, Oxford, to provide law scholarships.

Mr. Tufnell Burchell, solicitor, of Holborn, left (unsettled estate) £76,356, with net personalty £70,817.

Mr. William Butler, retired solicitor, of Barrow-in-Furness, left £16,149, with net personalty £13,030.

Mr. Peter Byrne, solicitor, of Wimbledon, late of Bombay, left £25,027, with net personalty £22,788.

Mr. Richard Sutton Clifford, solicitor, of Loughborough, left £9,207, with net personalty £8,372. He left £50 to Loughborough Cripples Guild and £50 to Leicestershire Institution for the Blind.

Mr. Ellis William Davies, solicitor, of Caernarvon, left £15,414, with net personalty £12,275.

Mr. Ernest Ralph Dodsworth, solicitor, of York, left £32,505, with net personalty £29,152.

The Right Hon. Sir Henry Edward Duke, Baron Merrivale of Walkhampton, P.C., of Gray's Inn, left £94,510, with net personalty £84,914. He desired that the silver bowls presented to him by friends and former constituents at Plymouth should be offered to Plymouth Corporation, and that silver presented to him by friends and sometime constituents at Exeter should be offered to the Corporation of Exeter.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (26th October 1939) 2%. Next London Stock Exchange Settlement, Thursday, 9th November, 1939.

	Div. Months.	Middle Price 25 Oct. 1939.	Flat Interest Yield.	‡ Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	103	3 17 8	3 15 2
Consols 2½%	JAJO	68	3 13 6	—
War Loan 3½% 1952 or after	JD	92¼xd	3 15 10	—
Funding 4% Loan 1960-90	MN	104	3 16 11	3 14 6
Funding 3% Loan 1959-69	AO	90	3 6 8	3 11 2
Funding 2¾% Loan 1952-57	JD	89½	3 1 5	3 11 0
Funding 2½% Loan 1956-61	AO	83½	3 0 1	3 13 1
Victory 4% Loan Av. life 21 years	MS	103½	3 17 4	3 15 2
Conversion 5% Loan 1944–64	MN	107¼	4 13 2	3 0 10
Conversion 3½% Loan 1961 or after	AO	92¾	3 15 5	—
Conversion 3% Loan 1948-53	MS	95	3 3 2	3 9 9
Conversion 2½% Loan 1944-49	AO	93¾	2 13 4	3 5 7
National Defence Loan 3% 1954-58	JJ	93	3 4 6	3 10 2
Local Loans 3% Stock 1912 or after	JAJO	79½	3 15 6	—
Bank Stock	AO	313	3 16 8	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	73	3 15 4	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	79	3 15 11	—
India 4½% 1950-55	MN	103	4 7 5	4 3 0
India 3½% 1931 or after	JAJO	80⅛	4 6 11	—
India 3% 1948 or after	JAJO	69½	4 6 4	—
Sudan 4½% 1939-73 Av. life 27 years	FA	107	4 4 1	4 1 4
Sudan 4% 1974 Red. in part after 1950	MN	100	4 0 0	4 0 0
Tanganyika 4% Guaranteed 1951-71	FA	100†	4 1 8	4 0 0
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	102	4 8 3	3 10 0
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	84	2 19 6	3 17 3
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	89⅛	4 9 5	4 12 11
Australia (Commonw'th) 3% 1955-58	AO	72½	4 2 9	5 6 9
*Canada 4% 1953-58	MS	105½	3 15 10	3 10 0
Natal 3% 1929-49	JJ	91⅛	3 5 7	4 4 3
New South Wales 3½% 1930-50	JJ	85½	4 1 10	5 5 5
New Zealand 3% 1945	AO	84	3 11 5	6 12 1
Nigeria 4% 1963	AO	99⅛	4 0 5	4 0 8
Queensland 3½% 1950-70	JJ	80†	4 7 6	4 15 4
South Africa 3½% 1953-73	JD	91⅛	3 16 6	3 19 2
Victoria 3½% 1929-49	AO	85⅛	4 1 10	5 8 4
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	74⅛	4 0 6	—
Croydon 3% 1940–60	AO	85	3 10 7	4 2 4
Essex County 3½% 1952-72	JD	95½†	3 13 4	3 14 10
Leeds 3% 1927 or after	JJ	75†	4 0 0	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	87¾	3 19 9	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	64	3 18 2	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	75	4 0 0	—
Manchester 3% 1941 or after	FA	74½	4 0 6	—
Metropolitan Consd. 2½% 1920-49	MJSD	92†	2 14 4	3 9 2
Metropolitan Water Board 3% "A" 1963-2003	AO	76½	3 18 5	4 0 7
Do. do. 3% "B" 1934-2003	MS	79	3 15 11	3 17 10
Do. do. 3% "E" 1953-73	JJ	85†	3 11 5	3 17 1
*Middlesex County Council 4% 1952-72	MN	101†	3 19 2	3 18 0
* Do. do. 4½% 1950-70	MN	103¾†	4 6 8	4 1 4
Nottingham 3% Irredeemable	MN	74½†	4 0 6	—
Sheffield Corp. 3½% 1968	JJ	95	3 13 8	3 15 9
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	93½	4 5 7	—
Gt. Western Rly. 4½% Debenture	JJ	102½	4 7 10	—
Gt. Western Rly. 5% Debenture	JJ	112½	4 8 11	—
Gt. Western Rly. 5% Rent Charge	FA	105	4 14 4	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	99½	5 0 6	—
Gt. Western Rly. 5% Preference	MA	81	6 3 5	—
Southern Rly. 4% Debenture	JJ	93½	4 5 7	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	101½	3 18 10	3 18 0
Southern Rly. 5% Guaranteed	MA	105	4 15 3	—
Southern Rly. 5% Preference	MA	83	6 0 6	—

* Not available to Trustees over par.
† Minimum price.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.